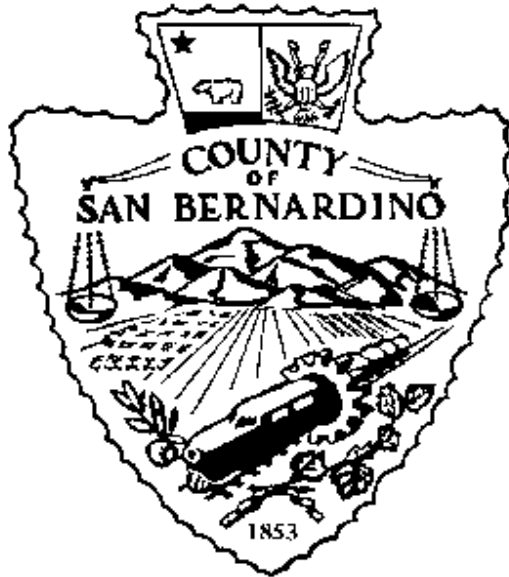


County of San Bernardino



2006 State Legislative Platform

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Government Finance and Operations

1. 2006-2007 Budget, Revenue Protection and Program Cost Shifts

Property Tax Administration Grants

Grants to counties for property tax administration are funded at \$54.3 million, reflecting a reduction of \$5.7 million from the 2004-05 level.

COPS/Juvenile Justice

The Governor's 2005-06 budget contains \$100 million to maintain the current-year level of support for the COPS program, which supports local law enforcement front-line services. However, the budget proposes to reduce support for intervention and prevention programs funded through the Juvenile Justice Crime Prevention Act by \$75 million.

The budget indicates that the Board of Corrections will be responsible for distributing the remaining \$25 million (less \$250,000 in administrative costs) for juvenile justice programs to counties.

Child Support Automation Penalty Pass-through

As a result of California's delay in implementing a single, statewide-automated child support system, the federal government has levied annual federal penalties against the state. The Governor's Budget includes \$218 million General Fund for payment of the federal fiscal year (FFY) 2005 penalty. The Governor's Budget also assumes that the federal government will allow the state to defer payment of the FFY 2006 penalty, if any, to September 30, 2006.

Realignment

For 2005-06, Realignment revenues are estimated to total \$4.3 billion, which represents an increase of \$227.3 million above 2004-05. The \$4.3 billion total includes \$2.7 billion in sales tax revenues and \$1.6 billion in Vehicle License Fee revenues. The projected \$173.9 million in sales tax growth will be distributed to the Caseload Sub-account to pay the balance of unfunded 2002-03 caseload growth (\$45.7 million) and the remainder (\$128.2 million) will be applied toward a portion of the unfunded 2003-04 caseload growth. The \$53.4 million in projected VLF growth will be distributed pursuant to current statute.

LEGISLATIVE POSITION:

- Oppose attempts (beyond FY 2005-06 obligation share of \$1.3 billion) to balance state budget by diminishing county discretionary revenue or modifying program cost sharing ratios at the expense of counties.

2. Reimbursement for Special Election Costs

The October 7, 2003 recall election was successfully conducted by counties, however, counties were not reimbursed for the costs of the recall. The Governor called another special election for Fall 2005 to address a number of reform proposals, with counties incurring expenses to conduct the election.

LEGISLATIVE POSITION:

- Support legislation that allows for the reimbursement of election costs, both for the October 7, 2003 recall election and future unfunded special elections.

3. Pension Reform

The Governor is proposing a constitutional amendment that prohibits the state or any local government from offering defined benefit retirement plans to employees hired after July 1, 2007. The Governor's proposed constitutional amendment would, instead, limit newly hired state and local government employees to Defined Contribution (DC) plans in which both the employer and employee could make contributions. One related constitutional amendment proposal has been introduced in ACA 5 by Assembly Member Keith Richman that would, in addition to proposals by the Governor, place limits on annual contributions made by public employers to the DC plan.

LEGISLATIVE POSITION:

- Support efforts to reduce public pension liabilities.

4. County Collections

The courts order criminal defendants and traffic offenders to pay various fines and fees that are collected by Central Collections, which produce county revenue.

Prior to AB 3000, existing law allowed the Board of Supervisors of a county to determine the order of priority in which disbursements are made from funds provided by installment payments on criminal fines and fees, or collected by the Franchise Tax Board for criminal fines and fees that are delinquent. In addition, prior law also allowed the Board of Supervisors to determine the priority of payment between court orders or parts of orders when defendants have been ordered to pay more than one court order. AB 3000 was introduced by the Budget Committee and became law on September 30, 2002. It amended Penal Code Sec. 1203.1d, among others.

AB 3000 requires the Board of Supervisors to mandate the following order of priority for disbursement of these funds: (a) restitution to the victim; (b) 10% State surcharge; (c) fines, penalty assessments and restitution fines, in an amount for each that is proportional to the amount levied for all those items; and (d) other reimbursable costs.

AB 3000 adds a state surcharge of 20% to the collection of victim restitution and fines. It also changes the priority of payments, to the advantage of the state and disadvantage of the county. The surcharge will be in effect until July 1, 2007.

All payments received by Central Collections are posted as prescribed under AB 3000, in accordance with its posting priorities regardless of the wishes of the defendant. These payments often include probation supervision, investigation, drug testing, set-up, attorney and civil assessment fees, all of which are county revenue.

By imposing a surcharge in favor of the state and giving it, as well as the state fines, higher priority over the fees owing to the county, AB 3000 will cause a decrease in county revenues. This may be made worse by an increase in the number of persons incarcerated as a result of their failure to pay certain fines. A decrease in collections for fees due the county may also result in increased demand on the general fund for payment if the county's contributions to the state for trial court funding are diminished. It is estimated that revenues may be reduced by \$1 million dollars per year.

LEGISLATIVE POSITION:

- Amend Penal Code section 1203.1d (b) to read:

With respect to installment payments and amounts collected by the Franchise Tax Board pursuant to Section 19282 of the Revenue and Taxation Code and subsequently transferred by the Controller pursuant to Section 19282 of the Revenue and Taxation Code, the Board of Supervisors shall provide that disbursements be made in the following priority:

- 1) Restitution ordered to, or on behalf of the victim pursuant to subdivision (f) of Section 1202.4.
- 2) The State Surcharge ordered pursuant to Section 1465.7 any fines, penalty assessments, restitution fines ordered pursuant to subdivision (b) of Section 1202.4 and any other fees or reimbursable costs. Payment of each of these items shall be made on a proportional basis to the total amount levied for all of these items.
 - a) The Board of Supervisors shall apply these priorities of disbursement to orders or parts of orders in cases where defendants have been ordered to pay more than one court order.
 - b) Documentary evidence, such as bills, receipts, repair estimates, insurance payment statements, payroll stubs, business records, and similar documents relevant to the value of the stolen or damaged property, medical expenses, and wages and profits lost shall not be excluded as hearsay evidence.

5. Tax and Revenue Anticipation Notes

Current law requires that county boards of supervisors issue Tax and Revenue Anticipation Notes (TRANs) and Grant Anticipation Notes on behalf of school and community college districts, with two primary ramifications. First, counties can be sued as necessary parties in the event something goes wrong with the sale or repayment of the notes. Second, county staff spends time and resources on the issuance and sale of the notes for other public agencies.

Section 53853 (b) currently allows the County Board of Supervisors to transfer the responsibility of issuing TRANs to the county Board of Education or governing board of a school district *only* in the case of a note of a county board of education, school district, or community college district to be issued in conjunction with a note of one or more other county board of education, school district, or community college district (a “pooled” TRAN).

The California Association of County Treasurers and Tax Collectors is seeking legislation to allow districts to issue and sell TRANs on their own either as part of a pool or as a stand-alone issuance.

LEGISLATIVE POSITION:

- Support legislation introduced by the California Association of County Treasurers and Tax Collectors, which would reflect the independence of Districts in requirements regarding issuance of Tax and Revenue Anticipation Notes.

6. Risk Management

The County of San Bernardino has legislative concerns related to three main areas of Risk Management: tort liability, safety/loss control and workers compensation. All three have significant legislative histories and have enormous potential costs for public agencies. The Legislative Platform positions outlined below reflect the County's priorities for Risk Management reform.

LEGISLATIVE POSITION:

- Support legislation to remove or decrease the limits placed on non-economic damages recoverable by plaintiffs in tort liability actions.
- Support legislation to enhance the effectiveness of government tort liability immunities.
- Oppose legislation that would authorize enforcement of Cal-OSHA regulations as criminal matters or would authorize enforcement by any other than Cal-OSHA.
- Oppose legislation to expand the third-party liability of public agencies for violations, injuries to workers, or mishaps for which another employer is responsible.
- Oppose arbitrary and unscientific ergonomic standards.

- Oppose standards under development by the Cal-OSHA Standards Board that would apply only to public employees.
- Support legislation that would repeal Cal-OSHA's ability to impose monetary fines upon public agencies for safety violations.
- Support legislation that will curtail abuses of the workers' compensation system.
- Oppose legislation to place workers' compensation coverage of government employees in a separate code, as this will make it easier for presumptions to move from police and fire personnel to all entity personnel.
- Support legislation to maintain or increase entry thresholds to obtain disability for stress-related disabilities.
- Protected Classes: Oppose legislative re-classification of existing occupations and expansion of the classes of persons considered employees and beneficiaries, for the purpose of entitlement to worker's compensation.

7. Retirement Systems

The State Association of County Retirement Systems has proposed legislation that would enable specific, named 1937 Act county retirement systems to become special districts for purposes of governance. It is proposed that this change in status would enable these county retirement systems to institute reforms better enabling them to compete for top-quality investment management staff.

This concept should be studied further to determine the County's ability to institute such changes within its existing employment system to remain competitive in the investment job market before advocating for creation of a special retirement system district in San Bernardino County.

LEGISLATIVE POSITION:

- Support the SACRS Proposal *only* if statutes provide each county with permissive authority to create separate special district status for its 1937 Act County Retirement System.

8. Reduce Surveillance Video Retention Time

Existing statutes require public entities to store video surveillance footage for one year. Because equipment storage capacity limits law enforcement agencies' ability to store video images, compliance would require purchase of expensive external storage arrays.

When introduced as evidence in court proceedings, videotape has been challenged many times, based on assertions that protection from tampering cannot be guaranteed. Conversely, current digital technology being deployed allows for the "burning" of a video CD that is watermarked with a Federal Bureau of Investigation (FBI) certified method that ensures no tampering with the image has occurred.

The storage on video CD, while cost effective on an individual incident basis, is not feasible for the storage of all routine video surveillance data. A jail installation, where the best image rate to capture incidents accurately is 12 images per second, per camera, would require significant additional expense on each installation, solely to provide long-term storage of images showing all routine movement in the facility. The additional cost for storing all images for one year could make installation of a new system unaffordable.

Reducing the storage requirement to 90 days for all video surveillance footage would provide sufficient time to transfer incident-specific images to video CD to meet requirements associated with pending litigation or claims.

LEGISLATIVE POSITION:

- Support legislation that requires public entities to store video surveillance images for as long as the recording equipment's internal storage capacity will permit on video equipment installed before January 1, 2006. For equipment installed after that date, require public entities to provide the longest storage capacity both economically and technologically feasible at the time of installation, with 90 days of storage as the ultimate goal.

9. Juvenile Justice Crime Prevention Act Funding

AB 1913, Chapter 353 of the Statutes of 2000, established the Juvenile Justice Crime Prevention Act (JJCPA). The Act provides approximately \$5.1 million in annual state funding to the county for juvenile crime prevention programs. The Juvenile Justice Coordinating Council (JJCC), a committee mandated by legislation and filled by stakeholder agencies and community representatives, develops and oversees juvenile prevention and intervention programs throughout the county.

The Governor's January Budget Proposal included a 75% reduction of this funding, which will equate to a County loss of over \$3.8 million annually. This funding is used to address juvenile crime prevention and to focus on public safety. Current programs funded by the Act include: Day Reporting Centers, House Arrest Program, SUCCESS Program, Let's End Truancy, and School Probation Officer. Each program is designed to utilize probation officers, community based organizations, school personnel, and other resources to meet the diverse needs of youth throughout the County.

Loss of 75% of the funding for these programs will place the youth in this County in jeopardy, as the county will no longer be able to operate the preventative programs currently in place. This will make juveniles more susceptible to negative influences, such as gangs and drugs. Truancy rates will likely rise, and there will be far fewer opportunities for early intervention and treatment of juveniles before they enter into the juvenile justice system.

According to a March 2004 annual report by the Board of Corrections, youthful offenders who have attended JJCPA programs are less likely to be arrested or incarcerated, more likely to complete community service programs, more likely to attend school, less likely to be suspended or expelled, and are testing at much higher grade point averages than at-risk youths who don't participate in JJCPA programs.

LEGISLATIVE POSITION:

- Support legislation and budget efforts to protect or increase Juvenile Justice Crime Prevention Act funding.

10. County Collections Access to State Data Base

San Bernardino County, through its Central Collections Division, collects approximately \$25,000,000 annually. That sum includes delinquent and disputed payments from insurance companies, delinquent payments from private pay patients at Arrowhead Regional Medical Center, traffic citations, court ordered fines, state restitution fines, court ordered victim restitution, and other debts to the county, the courts, and State of California, and other public agencies.

A successful collection effort requires detailed information about the debtor, including the debtor's address, place of employment and assets. Such information is best obtained with a social security number. With a social security number, Central Collections can accurately and efficiently obtain earnings, records and place of employment information from the State of California Employment Development Department (EDD), and from credit reporting agencies. Such information is often crucial for collecting debts owed to the county, and to others for whom the county collects money, including the courts, the state and crime victims. Social security numbers also serve as an important check on the identification of debtors, so that confusion is avoided between people with the same name.

The Franchise Tax Board operates a Tax Intercept Program. Using the program, the county may garnish a debtor's tax refund through the Franchise Tax Board. However, if the county cannot provide the debtor's social security number to the Franchise Tax Board, the Franchise Tax Board will not garnish the debtor's refund. Moreover, the Franchise Tax Board will not use its authority to obtain social security numbers from the DMV so that the county can participate in the program. This puts the county in a Catch 22 situation because the county can't participate in the Franchise Tax Board's Tax Intercept Program for a debtor unless it knows the debtor's social security number, and the Franchise Tax Board won't provide social security numbers to the county even though the Franchise Tax Board has access to them.

The Department of Motor Vehicles (DMV) maintains a database of social security numbers. Under current California law, the database maintained by DMV is only available to the Franchise Tax Board for collections purposes. Under the proposal,

the DMV would be required to disclose social security numbers to the county or the Franchise Tax Board for collections purposes.

LEGISLATIVE POSITION:

- Sponsor legislation to allow the DMV to disclose social security numbers to the county or the Franchise Tax Board and limit the use to collections activities and would be subject to the same limitations, protections, and confidentiality requirements that currently apply to county collections activities and to governmental entities that have access to social security numbers.

11. Sales and Use Tax

At a time when San Bernardino's growing population demands an increase in public safety enhancements, local governments are hard pressed to marshal the resources needed for police and fire protection. In some cases, hundreds of thousands of dollars are spent on sales and use taxes by public safety agencies.

Specifically identifying public safety related capital expenditures, including fire trucks, ambulances, helicopters, and similar "big ticket" items, as providing a "general public benefit," those expenditures should qualify for an exemption from sales and use tax just as nonprofit and educational organizations are entitled to exemptions. Public safety capital equipment expenditures can reasonably prove to be at least as great a "public benefit."

The State Board of Equalization has the ability, through an administrative ruling, to identify and classify public safety capital expenditures as providing a "general public benefit," qualifying those purchases for an exemption from sales and use taxes. Board of Equalization Board Members should be contacted and the issue, and potential impact on local public safety providers, articulated. Absent a favorable administrative ruling, legislative representatives could be asked to sponsor legislation specifically addressing the exemption issue.

LEGISLATIVE POSITION:

- Sponsor legislation to create a general public benefit exemption for Public Safety purchases.

12. Proposition 50 Funding

Assembly Bill (AB) 1747 (Oropeza, Chapter 240 Statutes of 2003) provides specific mandates and guidance for implementing Proposition 50, includes an exemption from the Office of Administrative Law review and approval process, directs \$20 million from the IRWM Grant Program for competitive grants for groundwater management and recharge projects, and includes a preference for water quality projects that will eliminate or significantly reduce pollution into impaired waters and sensitive habitat areas, including areas of special biological significance.

The bill would require the Department of Water Resources to allocate, of the funds appropriated to the department for those purposes, the sum of not less than \$20 million to competitive grants for groundwater management and recharge projects. The bill would require that not more than 50% of the grants be for projects in northern California. The bill would require the department, for projects in southern California, to give preference to projects outside the service area of the Metropolitan Water District of Southern California that are infill projects within one mile of established residential and commercial development.

LEGISLATIVE POSITION:

- Track and support Proposition 50 funding in order to maximize the County's advantage in competing for Proposition 50 funding awards and allocations.

Human Services

1. Repeal California's UPPL Law

Current state law allows a disability policy to contain a provision that an insurer is not liable for any injury sustained while the insured is intoxicated or under the influence of any controlled substance. This law, the Uniform Individual Accident and Sickness Insurance Policy Provision (UPPL), was adopted by California and 37 other states in 1947 as a "model law" that was justified on the principle that those who drink or use drugs place themselves in harm's way, and any injuries that occur are classified as a form of self-inflicted trauma.

However, the UPPL law has imposed unanticipated financial consequences on California's private and public hospitals. Hospitals that screen accident victims for alcohol or drugs risk loss of reimbursement from health insurers under UPPL if the victims test positive. Insurance companies can refuse to pay expensive emergency room costs incurred by intoxicated subscribers, leaving hospitals to pick up the costs. This is particularly damaging to county hospitals, many of which already operate at a loss, requiring scarce county funds to make up the difference.

As a result, the National Association of Insurance Commissioners (NAIC), in 2001, voted to seek repeal of UPPL and has adopted a new model law that expressly prohibits insurers from denying payment for medical treatment on the basis of intoxication. Maryland, North Carolina, and Vermont are among the states that have since repealed their UPPL, and several other states are poised to repeal their UPPL laws in 2005.

In addition to the hospital reimbursement issue, many emergency and trauma physicians and surgeons believe it is important to talk to patients about alcohol or drug use because the setting provides an ideal window of opportunity as patients are

more likely to consider changing a harmful behavior when it causes a life-threatening injury. In February 2004, the United States Surgeon General issued a request that all emergency departments and trauma centers adopt and implement an alcohol screening and brief intervention policy.

More than 20.5 million adults in the U.S. sustain injuries requiring emergency department care and 25% of injured adult patients (over five million patients) screen positive for alcohol or other drugs. Current law has been an obstacle for hospitals to seek reimbursement for treating these individuals, and an obstacle for doctors and surgeons to properly counsel and treat their patients. California should follow the lead of NAIC in repealing its UPPL law.

LEGISLATIVE POSITION:

- Support legislation to repeal the state's UPPL law.

2. IHSS Simplification and Funding Protection

The In-Home Supportive Services (IHSS) program provides services to clients who are aged and/or disabled and require assistance with activities of daily living to safely remain in their home. The program is governed by both State and Federal regulations. As with many of the programs counties operate on behalf of the State and Federal governments, a lack of standardization of some eligibility requirements exists and funding streams supporting the IHSS program are fragmented and inconsistent with other programs from the same federal funding source.

LEGISLATIVE POSITION:

- Support legislation and regulatory efforts to streamline, protect, and ensure adequate future funding and maximize simplification of the IHSS program.

3. Continued Services for Elderly During State Budget Delays

Currently there is no provision for continued appropriations for elder programs in the event of state budget delays. Existing law provides for the administration of local Area Agencies on Aging (AAA's) through the California Department on Aging. Funding for the 33 AAA's is 90% federal, 10% state General Fund. The federal funds are appropriated through the Older Americans Act. Local AAA's contract with local agencies to provide services to seniors including home-delivered and congregate meals, supportive services, and community-based services. Should a state budget be delayed, the Department of Aging cannot allocate the federal funds to the AAA's so that services are continued. San Bernardino County has been faced with continuing these contracts with local funds when there is a state budget delay.

LEGISLATIVE POSITION:

- Support legislation to ensure continued state pass-through of Federal funding of Older American's Act programs in the absence of a state budget by July 1.

4. Protection of Elders and Dependent Adults

County Adult Protective Services (APS) agencies face an ever-increasing population of the elderly due to the addition of the baby-boomer generation to the 65+-age bracket. Social work staff is faced with responding to an increasing number of reports while doing quality social work. The local APS agency is tasked with maximizing the protection of elders and dependent adults within existing funding sources. Federal studies have shown that only 2% of all monies for the protection of victims of abuse is spent on the elderly.

With increasing awareness of elder and dependent adult abuse, the public continues to make referrals of possible abuse and neglect to the county APS agency. National studies have estimated that many instances of elder abuse are never reported. Elder abuse is a problem with no demographic boundaries. It occurs in poor, middle and upper class households and in cities, suburbs, rural areas, and institutions.

Current funding allows for existing social workers to respond to these reports of abuse or neglect in the elder/dependent adult populations. However, as the aging population increases, APS caseloads will also increase, leading to more time needed to investigate referrals. Current funding levels must not be decreased due to increasing APS populations.

LEGISLATIVE POSITION:

- Support legislation aimed at providing a consistent approach to the protection of elders and dependent adults and protecting or enhancing current funding sources.
- Support clarifications in state law that would (1) allow each county to act with efficiency in responding to reports of elder and dependent adult abuse and (2) enhance the capabilities of those agencies tasked with working in collaboration with the local APS agency such as law enforcement, behavioral health, financial institutions, and the district attorney.

5. Long-Term Care Ombudsman Program

The Long-Term Care Ombudsman Program is mandated under the Older Americans Act, 42 U.S.C. Title VIIA Chapter 2, Sections 711-713; Chapter 11 of the California Welfare and Institutions Code, Sections 9700 through 9741; and the California Code of Regulations Title 22, Section 8010-8045. The Long-Term Care Ombudsman Program provides advocacy services on behalf of residents residing in licensed long-term care facilities such as skilled nursing homes and residential care facilities. The program is mandated in federal and state law and supported by federal and state General Fund dollars. Ombudsmen provide a regular presence in all long-term care facilities for the elderly by monitoring and investigating quality of life and quality of care issues. They investigate and resolve complaints and often collaborate with related agencies such as licensing and local law enforcement. Because of their frequent, unannounced presence in the facilities and their unique role in resolving

complaints, the Ombudsmen services are not duplicated by any other agency. In FY03/04, 2,211 claims by the elderly were investigated.

Recently, the State of California's Attorney General distributed a video to long-term care facilities. This video details the regulations under which employees of long-term care facilities must report abuse or neglect they have knowledge of. As a result, a dramatic increase of referrals has been made to the Ombudsman program that must be investigated. The programs are currently operating with one investigative staff Ombudsman (FTE) per every 2,500 long-term care beds. Recognizing the need for adequate staffing levels to cover the growing number of long-term care beds, there is a need to drop that ratio to one investigative staff Ombudsman per every 2,000 long-term care beds. The lack of adequate funding does not enable programs to hire and retain professional staff to handle the increasing demand for Long-Term Care Ombudsman services.

The local Long Term Care Ombudsman Programs have received the same base funding since 1986. This amount was intended to be the base operating budget for the cost of maintenance of operation and supportive resources for investigative fieldwork. While the State provides General Fund monies for the program, the State is under no federal obligation to do so. Recurrent State budget deficits could result in the State reducing program funding, especially for recruitment, training, and support of the program. The recruitment, training, and support of the Ombudsman volunteers are critical to the programs' ability to meet the mandates of the Older Americans Act. Additionally, the Department of Social Services, Community Care Licensing, has reduced its annual visits to Residential Care Facilities for the Elderly and Dependent Adults to once every five years, which will increase the need for Ombudsman services to those facilities.

LEGISLATIVE POSITION:

- Support adequate funding for the timely provision of Ombudsman services to all adult and elderly residents of long-term facilities.

6. Information/Assistance for Seniors

In 1992, the county created the Department of Aging and Adult Services (DAAS). This new department provided a variety of services to seniors throughout the County including information and assistance to seniors (SIA). The SIA program acts as a point of entry for seniors who are in need of help for various services (nutrition, health care, abuse referrals, etc.). Increased utilization of the programs services occurred when SIA became an entry point for the Utility Assistance Programs. This was especially the case during the energy crisis.

In 2003-04, The Senior Information and Assistance program in San Bernardino County received 44,867 contacts, via telephone or face-to-face, from seniors seeking information, underscoring the need for this important program.

LEGISLATIVE POSITION:

- Support legislation and related budget actions protecting funding for the Senior Information Assistance Program.

7. Senior Nutrition Services Reimbursement Rate

The Older Americans Act of 1964 provides for making grants available to states for the establishment and operation of congregate and home delivered nutrition services through the Elderly Nutrition Program. Nutritional well-being is an integral part of the overall health, independence, and quality of life for older persons. Senior nutrition programs are a key component of the service networks that provide elders with a continuum of home and community-based long-term care, thus avoiding unnecessary and costly institutionalization.

Approximately 10,000 elderly were provided approximately 1,000,000 congregate and home delivered meals in 2003-04 by nine contractors throughout the county. Funding has not been able to keep pace with the demand and the vendors have waiting lists for home-delivered meals. The USDA reimbursement rate for congregate and home delivered meals of \$0.53 per meal was changed in January 2004 to the Nutrition Services Incentive Program (NSIP). Under the new program, the reimbursement is based on the number of meals served in the prior fiscal year. Consequently, the program is an incentive for the provider to increase the number of meals served. The monies are allocated quarterly to the local Area Association on Aging, who in turn determines the best method of reimbursing the providers. Total funding per congregate meal averages \$2.50 (includes USDA reimbursement, other federal, state and local) while fully loaded costs typically exceed an average of \$7.00 per meal. Increases in minimum wage, raw food, and insurance are contributing to increased costs of meals. Home-delivered meals have had other factors that have added to the increased costs. Vehicle prices, gasoline costs, and insurance increases have all contributed to increasing costs of delivering meals to shut in seniors.

The demand for congregate and home delivered nutrition services has remained constant over the last year. Recipients of home delivered meals tend to be older, poorer, and more infirmed than their congregate meals counterparts. The overall population in San Bernardino County has increased 21% over the past decade. While the senior population (60 years and older) has only increased 16% the trend of those living longer has grown disproportionately. Another increase in the number of meals served will be seen as a result of a ruling by the Administration on Aging and the California Department of Aging that will allow family caregivers to accompany an older individual and participate in the meal and socialization activities as the senior nutrition sites.

With this shift in the senior population (85 years-plus) the accompanying need for additional services arises. To continue receiving senior nutrition services and to avoid institutionalization, this population needs home delivered meals rather than the

more cost effective congregate meals. Legislation is needed to mitigate the \$80,000 annual growth in this program.

LEGISLATIVE POSITION:

- Support legislation and related budget actions to protect or increase the allocation for Senior Nutrition funding.

8. Hospital Staffing Ratios

California's nurse staff ratio law (*Statutes 1999, Chapter 945, AB 394*) was passed by the California Legislature and signed into law by Governor Gray Davis in 1999. The bill's passage, which was sponsored by health care labor unions, followed several failed attempts by those same organizations throughout the 1990s to regulate nurse staffing through legislation and ballot initiatives.

The dire nature of California's nursing shortage has resulted in a lack of nurses to make this requirement work. As a result, overcrowded Emergency Rooms in many hospitals have created delays in transfers and admitting of new patients. In an effort to comply with the mandated nurse staff ratios, nursing units, and local hospitals, have been closed to new admissions, which directly effects the existing overcrowding in the Arrowhead Regional Medical Center's Emergency Room. Hospitals like Arrowhead Regional Medical Center that have been able to hire enough nurses to meet the ratios find themselves having to utilize nurse registries to meet the staffing ratio in specialized nursing units. It is very difficult to recruit and retain a sufficient number of nurses to meet the mandated ratios due to the ongoing economic competitiveness between local hospitals. In addition, according to the State Department of Health Services, the ratios are expected to cost hospitals hundreds of millions of dollars yearly.

Further efforts to expand staffing ratios to other professions by various unions representing hospital healthcare workers are expected in the next session. Two bills that would have opened the door to staffing ratios for non-nursing hospital staff were introduced in the last legislative session. Although neither bill passed, the sponsors, the Service Employees International Union, have vowed to reintroduce similar legislation in the next session. This points out the dangers that could lie ahead as staffing ratio proponents attempt to expand ratio programs to other hospital staff. Any such expansion of staffing ratios would increase the cost to operate Arrowhead Regional Medical Center and other hospitals. The hospitals or patients that they serve, because the cost of medical care is already more than most people can afford, especially those without jobs and health insurance, cannot tolerate this cost increase. Due to their inability to pay, more patients will be forced to utilize safety-net hospitals like Arrowhead Regional Medical Center, thereby adding to the existing strain on the safety-net hospitals' resources.

LEGISLATIVE POSITION:

- Oppose any legislation that would seek to expand nursing ratios

9. Transfer AB 3632 Program to the Department of Education

In 1975, the U.S. Congress passed the Individuals with Disabilities Education Act (IDEA) to assure that "all children with disabilities have available to them a free, appropriate public education that emphasizes special education and related services designed to meet their unique educational needs." "Related services" include occupational and physical therapy, mental health services, and residential placement. Every student who receives special education has an individualized education plan (IEP) agreed to by parents, teachers, school administrators, and other members of the IEP team. The IEP spells out which services the child needs.

In 1984, the California Legislature enacted AB 3632, which assigned responsibility to state agencies and counties for meeting the goals of an IEP. Basically, this legislation assigned schools the responsibility to educate, the state Department of Mental Health (DMH) the responsibility to provide mental health services, and the state Department of Social Services the responsibility of providing out-of-home care. Only approximately \$3 million was transferred from the state Department of Education to county mental health departments to assume responsibility for providing mental health services under the new state law.

By 2001-02, the annual categorical allocation to counties for AB 3632 services had grown to \$12 million. Because the costs for counties to provide these services - at least \$100 million statewide - far exceeded the categorical allocation, counties were reimbursed for their additional costs through the SB 90 state mandate reimbursement process. Passed in 1972, SB 90 requires the state to reimburse local governments for the costs of new programs or increased levels of service mandated by the state.

In the 2002-03 budget, all categorical funding for AB 3632 services was eliminated, and counties were told that they could receive all of their funding through the mandate reimbursement process. However, the budget also suspended mandate reimbursements for local governments. Although the 2003-04 budget allocated \$69 million for AB 3632 services, reimbursements only started flowing again to counties in the spring of 2004. As a result, after July 1, 2002, California counties did not receive any funding to pay for AB 3632 services until May 2004. During that time, many counties had to tap their realignment allocations and even county general funds to keep the program running. Many retroactive county claims for prior year reimbursements have yet to be paid.

Two recent Superior Court decisions have held that counties are relieved of the mandate to provide services absent full state funding for this mandate. The court decisions also recognized that school districts have the ultimate responsibility for providing related mental health services to special education students if counties fail to provide them due to lack of funding.

The Governor's proposed 2005-06 budget would suspend the AB 3632 mandate. There remains a federal entitlement to these services; it appears, however, that the Administration is proposing that schools meet this federal mandate.

The Legislative Analyst's Office (LAO) has recommended a change to state law to assign responsibility for mental health services to school districts rather than counties. This recommendation is supported by the County Mental Health Directors Association, which argues that fundamental flaws in the design and funding of the program have put counties at legal and financial risk for this federal special education program.

LEGISLATIVE POSITION:

- Support legislation that shifts full financial responsibility for the AB 3632 program from local mental health agencies back to the state Department of Education.
- Support legislation or budget actions that fully reimburse retroactive costs incurred by county mental health departments in providing mental health treatment services to pupils under AB 3632.

10. Substance Abuse Treatment Parity

It is estimated that over 120,000 Americans die each year as a result of drug and alcohol abuse. The estimated cost to taxpayers is nearly \$276 billion per year and includes increased health care, law enforcement, automobile accident, drug related criminal activity and lost productivity per year. Despite these statistics, many health plans do not offer substance abuse treatment to their subscribers, and many other plans severely limit the services provided.

As a result, many individuals who are covered by health care service plans or disability insurance for other medical conditions wind up competing with the indigent and other categorical clients for the very limited publicly funded treatment slots contracted for by San Bernardino County.

A 2001 study by the independent Legislative Analyst's Office (LAO) shows that while substance abuse treatment is relatively expensive on an individual basis, the cost is comparatively small when compared to overall health expenditures and when spread out over all enrolled members because few members receive substance abuse treatment. In addition, in the longer term, the LAO states there appear to be offsetting savings from avoided future medical care. This avoided expense would tend to hold down total health expenditures and offset the cost of treatment for alcohol and drug abuse.

A more recent study by the University of California, conducted at the request of the state Legislature, finds that untreated substance abuse imposes on society financial burdens (e.g., lost productivity, costs of social welfare administration) and threatens the wider community through increasing crime rates and the spread of infectious

diseases. Effective treatment has been shown to reduce medical costs, improve care for individuals with health problems unrelated to their dependence, reduce the health risks of the general population and relieve local government of a substantial portion of unreimbursed substance abuse treatment costs.

LEGISLATIVE POSITION:

- Support legislation that would require health care service plans and private disability insurers to offer substance abuse treatment to their subscribers on the same basis as any other medical condition.

11. Jail Inmates Mental Health Medications Funding

In the 1970s, the State of California placed a significant burden upon local governments by mandating the closure of the state mental hospitals. Today the de-facto mental hospitals have become the county jails. In fact, up to 20% of all jail inmates are mentally ill and in need of intensive treatment and/or medication.

As jails house more mentally ill inmates, and the cost of providing the more effective psychiatric medications to these inmates has increased, a large percentage of the jails' total medication budgets must now be devoted to psychiatric medications (up to 51% in San Bernardino County). County sheriffs are faced with the choice of providing only older, less effective medications (that have more side effects and, thus, lower compliance rates), or shifting funding from other public safety functions in order to purchase the newer, more expensive and more effective medications.

The new medications are often more costly than older medications, yet produce less adverse side effects. The use of newer, more effective psychotropic medications, with fewer side effects, is likely to increase compliance among mental health consumers and is likely to increase compliance among mental health consumers. The ultimate goal is to ensure that mentally ill offenders are provided proper medication and treatment to minimize future instances of crime.

LEGISLATIVE POSITION:

- Support legislation that would provide financial assistance to sheriff's departments to allow them to purchase the newer and more effective mental health medications for jail inmates with mental illness.

12. Federal Mandate Conformity

Child Welfare Services is a program authorized, regulated, and funded chiefly by the federal IV-B and IV-E programs. States may add further conditions or program enhancements that are not federally funded. When state budgets shrink, the ability to sustain inadequately funded state mandates declines. State mandates have been added back to statute and regulation, adding workload complexities that are not required by federal law.

LEGISLATIVE POSITION:

- Support legislation to eliminate any state child welfare mandates not required by federal IV-B or IV-E programs.

13. Minimum Workload Standards

SB 2030, Statutes of 1998, mandated an independent evaluation of the child welfare services workload in order to make updated recommendations on caseload standards necessary to support the mandated duties. Current funding is based on caseload standards developed in the early 1980s. Since then, an explosion of substance abuse has resulted in more complex and challenging child abuse cases. This, coupled with other demographic changes and new state and federal requirements, has dramatically increased the workload. The evaluator's report demonstrated the severe under funding of Child Welfare Services that makes it impossible for counties to meet the minimum regulatory requirements.

LEGISLATIVE POSITION:

- Support legislation and budgetary efforts to recognize the current under funding of Child Welfare Services and support efforts to fund the program at the SB 2030 recommended minimum caseload standards.

14. Reorganization of CAL/EPA

California spends more than \$5.3 billion annually and employs more than 21,000 people in its environmental, resource and agricultural stewardship programs. The state's commitment to these programs, measured in expenditures alone, exceeds the General Fund budgets of 22 other states. Unfortunately, the state's fragmented and fractured governmental structure undermines this unparalleled commitment of resources. Efforts to create a cohesive and coordinated approach to environmental protection stifle under a quilt of departments, boards, commissions, and offices administering scores of programs.

There are six separate entities within the California Environmental Protection Agency (Cal-EPA), each comprised of many different divisions and branches, which delegate and share regulatory program responsibilities among state and local government agencies. Each regulatory program is operated independently with little coordination between the programs. This fragmentation of authority and responsibility can be confusing to the public and to those who may be subject to regulation. Each of these entities maintains its own system to provide information to the public. None of these systems are integrated and few can be considered "user-friendly" for the public. Cal-EPA programs lack an efficient, integrated system to assist people who are required to comply with environmental regulations to understand what is expected of them.

The California Performance Review (CPR) recently released its report on reforming California's state government, with the aim of making it more efficient and more

responsive to its citizens. The CPR recommends that California's environmental stewardship programs focus on outcomes such as cleaner air, water, and beaches, rather than on processes.

The CPR recommends that CAL/EPA's many separate programs be restructured into five divisions, which will consolidate all of the department's functions into a rational and effective structure.

San Bernardino County generally supports the restructuring of Cal/EPA into the five divisions, subject to the condition that practical opportunities for public participation in statutory and regulatory interpretations and formal rulemaking process are afforded, and that a fair and efficient appellate process is maintained.

LEGISLATIVE POSITION:

- Support the CPR recommendation to restructure CAL/EPA as long as opportunities for public participation in statutory and regulatory interpretations and formal rulemaking process are afforded, and that a fair and efficient appellate process is maintained.

15. Simplify Public Health Funding Agreements

DHS funds most of its public health services through county and city local health departments. The 61 city and county health departments receive public health funding through more than 1,000 categorical agreements that total less than half a billion dollars in local assistance funds. DHS' Contracts Management Unit (CMU), which processes all contracts, estimates that the department now administers 3000 contracts with local health departments. San Bernardino County currently has approximately 50 contracts with DHS.

County health departments face competing application and reporting deadlines from DHS programs. The administrative burden of managing contracts with the state significantly reduces the time staff can devote to program activities. DHS' contract procedure has little flexibility to address existing and emerging local health issues. Most existing contracts are overly complicated and focused on spending allocations rather than measurable public health goals. In addition, delays in executing contracts, which are common, places a financial burden on local health departments, which must provide the services on faith that the state will eventually complete the contract procedure.

By contrast, some public health programs have statutory authority to fund local health departments through allocation or subvention agreements instead of contracts. These programs require plans from local health departments to assure appropriate use of funds and include or incorporate by reference the elements of a contract in an allocation or subvention agreement. DHS and Department of General Services do not review allocation and subvention agreements, thereby reducing processing times. Though these agreements are not subject to additional review, the

allocation agreements with city and county health departments do not pose a financial risk to the state or eliminate local health departments' accountability for performance. Allocations have also been exempt from recent contract freezes that have delayed contracts beyond the normal timeframes, assuring the funding and delivery of public health services.

The California Performance Review (CPR) recently released its report on reforming California's state government, with the aim of making it more efficient and more responsive to its citizens. The CPR recommends the use of allocation agreements instead of contracts.

LEGISLATIVE POSITION:

- Support the CPR recommendations to use allocation agreements instead of contracts, and to consolidate multiple program and reporting requirements for programs administered by county and city health departments on behalf of the state.

16. Transfer of the Department of Health Services Food and Drug Division to the Department of Food and Agriculture

The California Performance Review (CPR) recently released its report on reforming California's state government, with the aim of making it more efficient and more responsive to its citizens. Among other recommendations, the CPR recommends that the Food and Drug Division of the Department of Health Services (DHS) be transferred to the California Department of Food and Agriculture. (CDFA).

The CDFA's mission is to promote the state's agricultural products, ensure an equitable marketplace for California's agricultural products, and to support the state's agricultural infrastructure. As such, the agency's primary goal is to regulate the production and promotion of agriculture in the state.

In contrast, DHS's mission is to protect and improve the health of the state's residents. As part of this mandate, the DHS administers a broad range of public and clinical health programs that provide health care services to Californians, including oversight over retail and wholesale food sanitation through its Food and Drug Division. Putting DHS's food and drug safety services into a department whose primary goal is to promote agriculture sets up an inherent conflict of interest. The Department of Public Health asserts that, in the absence of a stronger rationale for this proposed transfer, and without firm safeguards to guard against potential conflicts of interest, this transfer of responsibilities would run counter to efforts aimed at protecting the health of the county's residents.

LEGISLATIVE POSITION:

- Oppose the CPR recommendation to transfer the Department of Health Services food and drug safety program to the Department of Agriculture.

17. HIV Reporting

The current HIV case reporting system is cumbersome and expensive. Physicians and laboratories each must generate a numerical code and report their cases independently. This dual reporting, with a coding system that is only familiar to certain public health employees, affords great opportunity for the introduction of error. Physicians and laboratories in California report other communicable diseases by the patient's name. Many health providers question why HIV should be treated differently.

The absence of names reporting is costly and decreases access to federal funds. While California spends a great deal of time and money on the current processes for reporting of HIV, the Centers for Disease Control and Prevention (CDC) refuses to acknowledge California's code-based HIV case data.

The absence of reliable HIV case data does a disservice to those living with HIV in California as they are not counted in the allocation of Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, Housing Opportunities for Persons with AIDS (HOPWA) or Substance Abuse Mental Health Services Administration (SAMHSA) HIV-related funds. This denies Californians access to federal funds available to others living with HIV in states with name-based reporting. It also imposes an undue tax burden on the citizens of California in order to meet the health and support service needs of persons living with HIV.

Name-based HIV reporting will simplify the reporting requirements for the service provider network, improve program efficiency for local health departments, and enhance the quality of the data maintained by the California Department of Health Services. One potential outcome is that this method of HIV reporting should increase California's access to Federal funds that support the health care and support service needs of persons living with HIV/AIDS.

The California Performance Review (CPR) recently released its report on reforming California's state government, with the aim of making it more efficient and more responsive to its citizens. The CPR recommends that DHS repeal the current HIV reporting regulations, which require a non-name code, and add HIV to the regulation that allows confidential reporting of all other diseases, including AIDS, by name. The Department of Public Health agrees with this recommendation as both a cost savings and public health measure.

LEGISLATIVE POSITION:

- Support the CPR recommendation to repeal the current HIV reporting regulations, which require a non-name code, and add HIV to the regulation that allows confidential reporting of all other diseases, including AIDS, by name.

18. Transfer the Office of Health Hazard Assessment from California Environmental Protection Agency to the State Department of Health Services

The Office of Health Hazard Assessment (OEHHA), currently located in the California Environmental Protection Agency (CAL/EPA), is charged with protecting and enhancing public health and the environment by scientific evaluation of risks posed by hazardous substances. It is responsible for developing and providing risk managers in state and local government agencies with toxicological and medical information relevant to decisions involving public health. OEHHA provides guidance to local health departments, environmental departments, and other agencies with specific public health problems, including appropriate actions to take in emergencies.

The Environmental Health Investigations Branch within the Department of Health Services (DHS) is charged with coordinating efforts to minimize the incidence and prevalence of communicable diseases, environmental and occupational hazards, and working with local public health and environmental health agencies which share the legal responsibility for protecting and enhancing public health.

The California Performance Review (CPR) recently released its report on reforming California's state government, with the aim of making it more efficient and more responsive to its citizens. The CPR recommends that OEHHA be transferred from CAL/EPA to DHS, and be integrated with DHS' Environmental Health Investigations Branch. CPR argues that this transfer will strengthen the capacity to identify environmental health risks.

Many of the environmental health programs - from drinking water to solid or liquid waste - involve managing risks to the public from both chemical and biological sources. Consistent with the principle that public health risk assessment and risk management should be organizationally separated, the San Bernardino County Department of Public Health recommends incorporating both the chemical and epidemiological risk assessment capabilities of the state into a single unit within the Department of Health Services.

LEGISLATIVE POSITION:

- Support the CPR recommendation to transfer OEHHA from CAL/EPA to DHS.

19. Implement a Children's Statewide Immunization Registry

California law requires children to be immunized before they begin school. Most childhood immunizations are supposed to begin well before children reach school age. More than half a million children are born in the state each year, each one needing about 20 shots to fully immunize them. Many, however, come from under- or non-insured families and may not even see a doctor before their second birthday. As a result, more than one in five is behind in their immunizations.

Even if a doctor sees the children, the records are often times incomplete or out of date. As a result, it is often difficult for health care providers to know for sure that the child has up to date immunizations. California has a highly mobile population and as children move from one location to another, their immunization records may not follow them.

The federal government's Healthy People 2010 has established a goal of having the immunization records of 95 percent of children under the age of six in an immunization registry by 2010. The Centers for Disease Control and Prevention (CDC) estimates about 44 percent children in this age group have their immunization records in registries. California is lagging behind, with only 20 percent of children's records in this age group included in regional immunization registries.

Currently, there are registries in each of nine regions covering 53 of 58 counties, including San Bernardino. The nine regional immunization registries are coordinated by DHS. Each regional registry works with local public health officials and the medical community towards the goal of immunizing as many children as possible.

Studies indicates the state could realize an economy of scale with a statewide immunization registry application, resulting in savings of nearly \$32.5 million annually from a decrease in workload for schools and the Women, Infants and Children aid program, reduction in paperwork for health care providers and reduced disease and over-immunization (\$3,700,000).

The California Performance Review (CPR) recently released its report on reforming California's state government, with the aim of making it more efficient and more responsive to its citizens. The CPR recommends that DHS develop a statewide registry for both cost saving and coordination reasons. The County of San Bernardino agrees with this recommendation as both a cost savings and public health measure.

LEGISLATIVE POSITION:

- Support the CPR recommendation that DHS develop a statewide web-based immunization registry. If a statewide registry is developed, support an implementation process that cooperates with the existing county registries that are currently active or under development, to assure maximum continuity during the transition.

20. Electronic Benefit Transfer (EBT) cards in the Women, Infants, and Children (WIC) Supplemental Nutrition Program

In California, the Women, Infants and Children Supplemental Nutrition Program (WIC) is administered by the California Department of Health Services (DHS). WIC is a 100 percent federally funded nutrition education and supplemental food program for low-income pregnant, breastfeeding and postpartum women, and children under age five who are at nutritional risk. The WIC mission is to promote proper nutrition as

a way to decrease the risk of poor birth outcomes and improve the health of children during critical times of growth and development. To meet this goal, WIC provides nutrition education, breastfeeding promotion, medical care referrals, and supplemental food that is high in protein and/or iron. Specific foods provided to participants include peanut butter, beans, milk, cheese, eggs, iron-fortified cereal, iron-fortified infant formula, and juices. WIC participants generally receive services for about two years.

California's WIC program receives about \$900 million in federal funding from the United States Department of Agriculture (USDA) and more than \$200 million in rebates from juice, infant formula, and infant cereal manufacturers. These rebates allow the program to increase the number of women and children served by more than 200,000 annually.

WIC benefits are currently delivered through a manual process implemented through contracts with 82 county and private non-profit agencies that operate 650 local WIC centers. Upon receiving food vouchers from the WIC centers, clients redeem the vouchers at one of the state's 4,189 approved WIC grocers. The grocers process each voucher as they would a personal check or money order and deposit the redeemed vouchers in the bank. The bank redeems the vouchers with the State Treasurer's Office.

WIC provides annual information to USDA about the combined administrative costs of producing and distributing vouchers and determining eligibility. In FY 2002–2003, the cost of these combined activities was \$88.3 million. WIC voucher production costs include the costs for State Treasurer's Office redemption services. Under a long-standing interagency agreement with DHS, the State Treasurer's Office processes between 250,000 and 300,000 WIC vouchers per day.

A number of other states have initiated EBT statewide or through pilots to provide WIC services. These include Wyoming, Nevada, Ohio, New Mexico, Texas, the New England Partnership (a consortium of New England states), and Michigan.

California's experience with the state's existing Food Stamp EBT system, and existing WIC EBT pilots and programs in other states, have shown that EBT results in cost savings and increases ease-of-use for most participants in WIC and Food Stamp programs. Retailers gain through savings generated by reduced administrative and cashing costs associated with voucher handling and bank fees, elimination of returned vouchers and timely reimbursements. Financial institutions realizing cost savings through the elimination of handling, sorting and transporting paper vouchers. Public health purposes are served by ease of use, which helps ensure that mothers and children maintain a proper diet.

The California Performance Review (CPR) recently released its report on reforming California's state government, with the aim of making it more efficient and more

responsive to its citizens. The CPR recommends that DHS utilize the existing Food Stamps electronic benefits transfer network to implement an EBT system for WIC.

LEGISLATIVE POSITION:

- The Department of Health Services should utilize the existing Food Stamps electronic benefits transfer network to implement an EBT system for WIC.

21. Realigning Health and Human Service Programs

In 1991, the State was faced with a \$14.3 billion deficit – a gap believed to be too deep to bridge solely with revenue increases and budget cuts. A number of structural changes were passed by the Legislature in response to the budget deficit. Among the most significant reform measures was the shift of programmatic and fiscal responsibility from the state to counties for health, mental health, and various social service programs.

In January 2003, then-Governor Davis proposed to extend realignment to other programs. Although that effort ultimately proved unsuccessful (partially because of county complaints that the new programs proposed were inappropriate candidates for realignment), it showed that changes to the state-county relationship were still being considered, and was a warning to the counties to be prepared for further realignment efforts.

The California Performance Review (CPR) recommends that the Governor should convene a working group comprised of representatives of county governments, the Legislature, and the Administration and charge it to develop a realignment implementation plan for health and human services (HHS). The California State Association of Counties has adopted a position stating that the recommended elements of this realignment should include:

- Amendments to the Welfare and Institutions Code to relieve counties of the responsibility for indigent health care and transfer responsibility for funding and administering the Medically Indigent Adult (MIA) program to the state.
- Realignment of responsibility for administration and non-federal funding of the In-Home Supportive Services (IHSS) program to the state.
- Realignment of all remaining state-administered and funded mental health services to the counties.
- Realignment of Child Welfare Services (CWS) to give full responsibility for nonfederal program and funding to the counties.

LEGISLATIVE POSITION:

- Support the CPR recommendation to convene a workgroup to develop a realignment implementation plan for health and human services programs using the CSAC principles as the basis for this important effort.

22. CalWORKs and Food Stamps

On August 22, 1996 the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act revolutionized welfare in the United States. Temporary Assistance to Needy Families (TANF), which is known as CalWORKs in California, has been very successful in moving families from welfare to work. Until recently, the combination of an extremely healthy economy for the past several years and the implementation of welfare reform has resulted in substantial reductions in both the number of families receiving cash assistance and the incidence of child poverty.

Major developments in federal welfare legislation will take place this year, as the welfare policy debates have already begun for the reauthorization of the TANF program, with significant implications for local governments in California. President Bush's proposed welfare reforms, announced in February 2002, are starting points for Congressional debate on legislation to reauthorize the 1996 welfare authorization law, which has been extended under the current provisions until March 31, 2005. TANF Reauthorization proposals call for tougher work requirements, increasing the required number of hours for welfare recipients to work each week, and increasing the proportion of each state's welfare recipients who must be working or actively seeking work. Proposals seek to restore Food Stamp benefits to all legal immigrants, but retain the current ban on immigrants receiving cash welfare benefits. Resulting workload changes could cause hardships to local governments, especially in California, where caseloads have not been reduced as much as in other states. The California Legislative Analyst's office estimates that implementation of the President's proposal would cost California \$2.8 billion over the next five years. Whatever requirements end up in the final TANF Reauthorization, the county will need to take proactive efforts in shaping the new CalWORKs regulations, with the goal of ensuring local flexibility in CalWORKs program requirements.

In the 2003 legislative year, the Governor signed AB 231, which exempts one motor vehicle for the purposes of determining Non- Public Assistance Food Stamp program eligibility. CalWORKs recipients who are also eligible for Food Stamps are still bound by current motor vehicle asset determination requirements. Such disparity between the two program requirements can lead to increased error rates, which could result in increased penalties for both the state and counties.

California allows for a vehicle value of up to \$4,650 to qualify for CalWORKs. Owning a vehicle of this value often means that a recipient will have a vehicle that frequently needs repairs or breaks down, perhaps leading to loss of employment. A study by UC Berkeley found that with a reliable vehicle, public assistance recipients are 75% more likely to find employment, and if employed, 75% more likely to remain employed.

LEGISLATIVE POSITION:

- Support legislation and related budget actions to protect or increase CalWORKs administration funding and maintain local flexibility in CalWORKs program requirements.
- Support legislation that promotes increased alignment between the Food Stamp program and CalWORKs requirements and simplifies quarterly reporting in those programs.
- Support legislation that would exempt one motor vehicle from assets used to determine Food Stamps and CalWORKs eligibility.

23. Simplify and Streamline the Medi-Cal Program

The nature of California's Medi-Cal system is so complex and fragmentary that it almost defies rational solutions. Delayed processing due to program complexity continues to drive potential recipients to hospital emergency rooms for episodic care, often at county expense, instead of using Medi-Cal for preventive care.

Over the past 20 years, the piecemeal expansion of the Medi-Cal program has led to an unwieldy system that has become progressively more difficult for counties to administer, and increasingly complex and unfriendly for the public to access. There are currently 35 different Medi-Cal programs with more than 150 different aid codes. As more and more specialty programs are created, the proliferation of aid codes continues. Some of these specialty programs are the result of legislation and some have been created for administrative reasons. Many, if not most, of these sub-categories have different eligibility criteria and budgeting methodologies. Many of them require multiple budgets, often within the same family. The sheer size and complexity of the Medi-Cal system has led to an administrative nightmare for counties that are forced to handle growing Medi-Cal caseloads, and to an increase in uncompensated medical costs for counties that are required by law to provide medical care through county medical facilities for uninsured individuals, many of whom have been dissuaded from applying for Medi-Cal by the burdensome application process currently required by state law.

The Administration, through both its Medi-Cal reform process and the California Performance Review, (CPR) has made reducing the cost of the Medi-Cal program a priority this year. While not everyone agrees on what steps should be taken to reduce this complexity, there is general agreement that the time is right to simplify the program. A simplified and streamlined Medi-Cal Program would generate administrative savings for both the state and counties, workload relief for county workers, and a reduction in uncompensated care provided by counties.

LEGISLATIVE POSITION:

- Support efforts to work through the Administration's Medi-Cal reform process to simplify the Medi-Cal program and reduce administrative costs. Support Medi-Cal reform elements that would reduce the number of uninsured visits to county medical facilities.

24. Protect Local Funding For County Veterans Service Offices

CVSOs play a vital role in the local veteran community, not only within the VA claims process but in other aspects as well, including providing information about all veterans' benefits – federal, state and local – as well as claims assistance for all veteran-related benefits, referring veterans to ancillary community resources, providing hands-on development and case management services for claims and appeals, and transporting local veterans to VA facilities.

AB 2268, Chapter 804 of the Statutes of 2004, authorizes the State Department of Veterans Affairs (DVA) to contract, with the approval of the State Department of Finance (DOF), with any non-profit veterans service organization to pursue benefits for California's veteran population, subject to appropriation in the State Budget Act. Originally, AB 2268 would have provided a specific appropriation for non-profit veteran service offices, such as the VFW, to provide the same services to veterans that county veterans service offices do. However, the bill was amended and chaptered to provide that the provisions of the bill would be implemented only to the extent that an appropriation was made, if any, in the annual budget act. CVSOs statewide originally opposed the bill without the provision subjecting implementation to appropriation, which would have placed local funding at risk. While CVSOs removed their opposition to the bill in its chaptered version, AB 2268 illustrated how precarious funding for local CVSOs is.

CVSOs receive \$5 million statewide from the California Department of Veterans Affairs. San Bernardino County annual subvention from the State is \$299,000. Any attempt to direct a portion of those funds to other organizations jeopardizes the ability of CVSOs to deliver services to veterans. Protecting funding for county veteran service offices will ensure that local agencies have the financial resources to continue to provide services to veterans efficiently and effectively.

LEGISLATIVE POSITION:

- Support state legislation to protect state subvention of county veterans service offices.

25. Sex Offender Placement

As part of its mission and in an effort to provide homes for the developmentally disabled, the Department of Developmental Services is, from time to time, tasked with the responsibility to place developmentally disabled probationers. In March of 2004, an attempt was made to place four developmentally disabled probationers with convictions for sexual offenses in the community of Phelan. That same year, attempts were made to place a similarly situated group in the community of Lucerne Valley. The legislature has removed most every element of local control over the placement of sexual offenders, in large measure because of the anticipated reaction of citizens and community leaders. However, the County of San Bernardino, in their

charge to provide for the general welfare and the protection of its citizenry, desires to have more input on the placement of sexual offenders. Efforts to amend current law and introduce new legislation aimed at limiting the location of placements has met with tremendous resistance. Nonetheless, efforts should be advanced in pursuit of increased protection for County residents.

LEGISLATIVE POSITION:

- Support new legislation or amend proposed legislation to provide the County of San Bernardino with more discretion over the placement of sex offenders in group homes in the County.

26. Children and Families Commission

There are three Children and Families Commission-related bills currently under consideration in the State Legislature—two before the State Senate and one before the State Assembly.

These bills, resulting from the recent audits of the Children and Families commissions of El Dorado, Kern, Los Angeles, San Diego and Santa Clara counties, call for massive reforms regarding how county commissions conduct business as well as how each commission is comprised.

Senate Bill 34, authored by Senator Dean Florez, proposes to change the composition of county Children and Families commissions. Existing law provides for Children and Families commissions to be comprised of members who hold positions with the county and others who are appointed by county supervisors. This bill would change the law to require that the majority of the county's Children and Families Commission consist of persons who do not represent the county. Moreover, it would prohibit the chairperson of the county commission from being a county supervisor or someone employed by the county. This bill would also require each county commission to establish an advisory policy board, composed of a county supervisor and the mayor of each city in the county (or designee) to make recommendations regarding policies and guidelines for the commission to use in setting goals and funding priorities.

Senate Bill 35, also authored by Senator Florez, has an Assembly counterpart in Assembly Bill 109, authored by Assemblywoman Wilma Chan. Both bills share many similarities in that they:

- Require the county commission, in a public hearing, to adopt policies consistent with state law on conflict of interest for commission members
- Require contracting and procurement policies to be made public
- Adopt limits on administrative costs
- Allow for punitive measures for failure to submit data to the state commission
- Mandate the State Controller to audit each commission
- Require the State Controller to audit county contractors

- Describe the minimum scope of the Controller's audit
- Require the State Controller to submit the audit report simultaneously to the state commission and the audited county commission
- Require a public hearing on the audit report within two months of receiving it in order to discuss audit findings
- Require the commission to submit a response to the Controller within two weeks of the public hearing
- Require the Controller to determine, within six weeks of the response by the commission, if it has corrected the practices found lacking in the audit
- Allow for punitive measures to county commissions who do not follow the Controller's recommendations
- The Controller must submit a summary of final audits by November 1 of each year.

The Children and Families Commission of San Bernardino acts in accordance with many of these proposals because they are already written into state law.

However, SB 35 and AB 109 are fatally flawed in that there is no timeline for restitution for delinquent counties. A county, once it is in good standing with the State Controller, should know how long it would take for the money it would receive from the California Children and Families Trust Fund to find its way back into its local fund.

Secondly, SB 35 and AB 109 leave no room for local control and local decision-making in its expenditures, nor do they adequately define what falls under "administrative costs."

LEGISLATIVE POSITION:

- Oppose SB 34 and SB 35 (D-Florez) and AB 109 (D-Chan) as the legislation would weaken the County's ability to effectively manage the Children and Families Commission.

Housing, Land Use, and Transportation

1. Modification of Prevailing Wage Requirements for Affordable Housing Projects

The State Legislature adopted SB 972 in 2003 which amended Labor Code Section 1720 to require all projects receiving any amount of redevelopment funding assistance to pay prevailing wages on all aspects of the construction activity. As a result, the cost of constructing affordable housing in the State has substantially increased with a resultant reduction in the number of affordable housing units that can be constructed with the limited amount of housing funds available to redevelopment agencies.

If prevailing wage was not required for housing construction projects in which a substantial number of total units, as defined in Section 33413 of the Health and Safety Code, are affordable to households of low- and moderate income the total number of affordable housing units in the State can be significantly increased, thereby accomplishing the goals set forth in redevelopment law.

LEGISLATIVE POSITION:

- Support legislation modifying prevailing wage requirements for redevelopment agency funded affordable housing projects.

2. Harper Lake Development

The current impact of the Chino area dairies and industry in the Los Angeles basin on air quality in the South Coast Air Quality Management District and the impact on the water quality of the Santa Ana River Basin are severe. Opportunities need to be created to eliminate the pollution that impact air quality and the waste streams and contaminants that leach into the Santa Ana River and the ground water of the basin.

The Chino area dairies are being forced out of the South Coast Air Quality Management District because of ever increasing pressure to further clean the air in the Los Angeles Basin. It has been reported that the Basin could jeopardize at least some portion of its federal transportation funds due to the increasing impact of development and population on air quality. The dairies and the industry in the basin need to be relocated to allow for additional residential growth. The county risks the loss of all of these industries unless a viable plan is developed to relocate them to the Harper Lake area and into the Mojave Desert Air Quality District.

The Harper Lake area of the Mojave Desert could be developed, with the dairies leading the way, by providing a location and an opportunity for both the dairies and other industries to modernize and use the "best available practices" to minimize environmental impacts to the entire region.

LEGISLATIVE POSITION:

- Support energy tax credits for the development of power generation, primarily in the areas of renewable energy including solar, wind, waste, biomass and ethanol.
- Support the creation and implementation of a method to transfer and/or create additional environmental impact credits to provide the ability to attract industry and the dairies to Harper Lake.
- Support Harper Lake as a renewable energy center for the Western United States, increasing its capacity, and promoting the area since it currently produces more solar thermal energy than anywhere else in the world.

3. Access to and through Federal Public Lands

Historic access on Federal public lands, primarily administered by the Bureau of Land Management, has been allowed under R.S. 2477. That law, dating from 1866, was repealed in 1976, but rights-of-way created under the act remain in force. Under the Federal law, the rights-of-way were “self issuing,” with no documentation issued by the Federal agency or recordation on Federal public land records. Within San Bernardino County virtually all of the county’s primary road system outside the urban area was created and is so authorized, and thousands of miles of secondary routes exist on the 8,000,000 acres of public land in the county. These, in total, provide a variety of public access for commercial and recreational uses that exist, or are permitted under a variety of federal laws.

Controversy and ambiguity has existed since 1976 over how the federal agencies would provide for documentation. Several Secretaries of the Interior have attempted to adopt standards for roads established under the law, such as paving, before written “authorization” or documentation would be provided applicants. Meanwhile over the past 28 years there have been many changes in administration of public lands, including closures and restrictions under wilderness legislation, route designations by the local BLM offices, and transfers in jurisdiction from BLM to the National Park Service. This controversy and ambiguity creates problems related to continuation of access and with regard to enforcement in areas where agencies have taken closure actions when routes exist providing access to private property, mining claims or various improvements such as wildlife water developments that require periodic maintenance. (Similar ambiguity does not generally exist within National Forest areas, since most National Forest lands were “reserved” between 1897 and 1905, thus no longer being subject to construction of routes under R.S. 2477 authorization, even though the lands remained open for exploration and location of mining claims.)

In 2003, the Department of the Interior adopted regulations that allowed States and counties to apply for recordable disclaimer in the land underlying such roads, in essence passing title to the local agency claiming jurisdiction. (“Recordable disclaimer” is in effect a quitclaim deed issued by the department.)

Because of the importance of the issue within San Bernardino County, the county made one of the first filings for a road within the nation: Camp Rock Road between Lucerne Valley and Daggett. To date, the Department of the Interior, acting through the BLM, has not acted upon the application.

During 2004, the California Legislature passed a bill requiring local governments to seek clearance from the State's Resources Agency before filing an application with the USDI for such recordable disclaimers. Such clearance would require internal review and certification of compliance with State laws that historically apply to only to new construction (CEQA and CESA), but should not be required for simply an administrative action for existing construction. The Governor vetoed the legislation. The State lacks organization, staffing and funding to even review such applications, and the review is unnecessary. Even the USDI does not require clearances under Federal environmental laws (NEPA and ESA). The recordable disclaimer regulations provide for an administrative and ministerial action only, and it grants title only to the extent of its dimensions as they existed on October 21, 1976, and to the extent that it currently exists. The Federal regulations specifically allow local governments to apply directly to the Federal agency (BLM) for the recordable disclaimer.

The state does, under the regulations, have an opportunity to participate in consideration, adjudication and decision-making regarding applications. After determining basic qualifications of the unclaimed right of way (existence prior to October 21, 1976), the application is published and BLM receives comments and inputs for 90 days prior to issuing any decision and passage of title.

LEGISLATIVE POSITION:

- Oppose legislation that would require state review when local governments seek rights-of-way for existing roads and routes on Federal lands under R.S. 2477, recordable disclaimer regulations or any other legal means. Such opposition extends to opposing any requirement for active pre-application involvement of the State's Resources Agency, or any other department of the state.

4. Habitat Conservation Plan Funding

In support of the second stage activities required to implement the West Mojave Habitat Conservation Plan (HCP), the California Department of Fish and Game (CDFG) has selected the local government sponsors (San Bernardino and Kern Counties) of the HCP for a FY 2003 Section 6 grant under the state Habitat Conservation Planning Assistance Program. The grant is for \$300,000 (\$150,000 for each county) based on a local match of \$300,000. The local match will be made through in-kind staff services. The counties have agreed to pool the funds for a more effective work program to obtain incidental take permits under the state and federal Endangered Species Acts. The specific objectives for the grant are to prepare the necessary documents and supporting information to enable the issuance of 2081Permits by the CDFG and a Section 10a(1)(B) permit from the U.S.

Fish & Wildlife Service. The grant will be awarded upon execution of a Memorandum of Agreement between the counties and CDFG. While this funding provides a substantial head start, additional funding will be needed to complete the process. Additional activities beyond that funded by the existing grant will be required to complete the process of securing the permits. These activities include, but are not limited to: coordination with and administrative support to the various participating local jurisdictions in amending local general plans and/or development ordinances and attending various city council and county board of supervisors meetings associated with adoption of the final plan and developing a data base and geographic information system for program management. The follow-on activities may require an additional \$500,000-\$600,000 to complete.

LEGISLATIVE POSITION:

- Sponsor and/or support legislation to provide funds for development and implementation of habitat conservation plans and/or NCCP plans developed under the auspices of the California Endangered Species Act, (i.e., West Mojave Plan).

5. Reform CEQA and Endangered Species Act

Currently, the California Endangered Species Act (CESA) requires "sufficient scientific information" to support requests for listing or delisting of an animal or plant pursuant to the Act or to modify an existing listing status. However, scientific data are not required in implementing the Act or other related Fish and Game Code provisions on a day-to-day basis. Likewise, when considering potential impacts to biological resources posed by development projects during review under the California Environmental Quality Act (CEQA), impact assessments and prescribed mitigation measures often lack scientific credibility. The County is seeking legislative reform to related statutes and regulations to incorporate science-based implementation and enforcement of CESA and CEQA.

LEGISLATIVE POSITION:

- Support reforms to the California Endangered Species Act and CEQA to require scientific justification for regulatory or judicial actions affecting land use decisions by local jurisdictions.

6. Ozone Transfer

Air Quality improvement efforts in Southern California must reflect the region's geographic complexities and recognize the migration of negative impacts from one Air Quality Management District to another. In San Bernardino County, greater cooperation is needed between the South Coast Air Quality Management District and the Mojave Desert District to address air quality concerns of all residents.

LEGISLATIVE POSITION:

- Support legislative efforts by the South Coast Air Quality Management District and the Mojave Desert AQMD to understand the dynamics of ozone transfer from the former to the latter and to develop plans for its mitigation.

7. Mitigation of Indian Casino Impacts

When considering tribal-state gaming compacts, the Legislature must carefully consider the extent to which casino operations negatively impact local jurisdictions, and the extent to which proposed mitigation efforts effectively address all impacts. Specifically, this review should consider issues such as the extent to which safeguards exist to protect public safety, health and welfare. To these ends, all casino building projects should be required to complete CEQA review and be subject to building and safety standards at least equivalent to local county standards required of other building construction projects as well as inspection approvals.

LEGISLATIVE POSITION:

- Support legislative and administrative efforts to mitigate public health, safety, welfare, and environmental impacts related to Indian casinos and tribal gaming.

8. Ensure the current water flow through Mojave Narrows Regional Park

The state's Mojave Fish Hatchery is responsible for a substantial portion of the water that flows through Mojave Regional Park. Water that is pumped from the Mojave River Basin and used in the fish hatchery's operations is then diverted through Spring Valley Lake and the Mojave River into the regional park. If the state were to shut down operations at the hatchery and cease pumping the water, the park would suffer significant consequences. The consequences include: reduced water flow through the regional park which would distract from the scenic beauty of the river walk, lack of running fresh water for fish that are stocked for the fishing programs, and reduction of ground water in the wells that are used for irrigating the park grounds.

LEGISLATIVE POSITION:

- Support legislation and related budget actions providing for continued operations at Mojave Fish Hatchery.

9. Disability Access

The County of San Bernardino is constantly working to upgrade its regional parks and facilities to meet, if not exceed, Americans With Disabilities Act (1990) standards. It is also sponsoring cities in their efforts to do the same with their public facilities. Greater cooperation is needed between the State of California and the County of San Bernardino in order for such projects to be completed.

LEGISLATIVE POSITION:

- Sponsor and/or support legislation that delivers ADA-related upgrade assistance to the County of San Bernardino.

10. Perchlorate Contamination

Soil and groundwater investigations have determined that perchlorate is not emanating from the existing Mid Valley Sanitary Landfill (MVSL). In 1994, after an extensive environmental investigation report found no significant issues, the County purchased a portion of the Rialto Ammunition Backup Storage Point to use for future expansion of the MVSL. In 1999, perchlorate was discovered to be potentially emanating from on or near the property the County purchased in 1994. Therefore, in an effort to protect the citizens of the area, the SWMD has spent approximately \$3.5 million to investigate and characterize perchlorate-related impacts to groundwater that are believed to have originated on or near this property. Soil on private property occupied by a fireworks manufacturer is directly downstream of future expansion areas. Areas surrounding expansion sites have tested positive for perchlorate in large amounts. The SWMD is expected to spend another \$4 to \$5 million to intercept and contain the identified perchlorate plume, and to construct a treatment plant that assures continued delivery of drinking water to the City of Rialto at its Well No. 3. The County will also be spending approximately \$1 million per year through the life of the cleanup (approximately 10 to 20 years) to keep the treatment plant operating. Additionally, extensive testing of soil on the property will be required and removal and disposal of any contaminated soil will be required. This is currently budgeted at \$5 million.

The County is involved in a legal process to recoup funding from private companies and the Department of Defense who previously owned or conducted operations on the property which is believed to have resulted in the presence of perchlorate. Most of these private companies are either defunct, bankrupt, or cannot be located and funding gained from these sources, if any, is years away.

LEGISLATIVE POSITION:

- Request and/or support budget allocation approximating \$20 million to assist the County in effort to clean up impacts created by the existence of perchlorate contamination to soil and groundwater in and around future landfill sites.

11. Southern California Logistics Airport

Southern California Logistics Airport, SCLA (formerly George Air Force Base) was closed in 1992 severely impacting the economy of the High Desert Region with the loss of 7500 military and civilian jobs and an economic impact of \$380 million. The High Desert region remained in a "recession" condition throughout most of the 1990s. The former Base is now operated by the City of Victorville and a Joint Powers Authority consisting of the High Desert Cities and the County of San Bernardino. It is widely understood that the industrial and commercial development

of SCLA will be the economic engine that will drive the economy and create jobs for the region.

LEGISLATIVE POSITION:

- Support SCLA's plan both in the state transportation plan and the regional transportation plan for funding of an East-West corridor from State Route 395 to Falsion interchange (proposed interchange north of Stoddard Wells Road) on Interstate 15.
- Support the continuation of SCLA's LAMBRA Enterprise Zone designation and extend, if possible, for the full amount of time allowable under the law.

12. Design-Build Contracting Option

The 2000-01 County Grand Jury issued an interim report on the County Architecture and Engineering Department on February 2, 2001 and recommended that the department request Board approval to pursue new legislation to allow San Bernardino County to use the Design-Build method as a contracting option.

In 2000, Governor Gray Davis signed Assembly Bill 2296 that authorized the counties of Alameda, Contra Costa, Sacramento, Santa Clara, Solano, Sonoma and Tulare to enter into County design-build contracts according to certain specified procedures, through the end of 2005. This legislation allows these certain counties the ability to use design-build as a contracting option for their public works projects, which exceed \$10,000,000 in value. Projects valued at between \$10,000,000 and \$20,000,000 must be awarded to the lowest responsible bidder. Projects valued at more than \$20,000,000 may be awarded instead to the design-build entity submitting the proposal with the "best value". The "best value" will be evaluated upon the basis of price, features, functions, life-cycle costs, and other relevant factors.

The Architecture & Engineering Department currently uses the conventional system of design-bid-build on new construction projects. This process involves sequential tasks, which may result in project schedules that are longer than required in order to meet certain funding or user department priorities. Conversely, the advantages of a design-build contract project delivery system include accelerated completion of the projects, improved cost controls, reduction of construction complexity, and reduced exposure to risk for the County.

A new report from the Legislative Analyst's Office outlines a series of recommendations consistent with providing local governments with a design-build option that would offer local governments greater flexibility and more efficient use of their resources.

LEGISLATIVE POSITION:

- Sponsor legislation that gives San Bernardino County the option to use a design-build construction delivery method that eliminates the cost limitations and the requirement that local governments enter into labor force compliance programs.

13. Wildlife Habitat Accountability

A non-profit environmental group acquired mitigation land from developers in San Bernardino County under the pretense that the land would be protected as open space. The group also received money from developers to maintain the land. Other than placing a chain-link fence around the land, the group has done nothing to maintain it. The group has not conducted environmental or biological studies to assess the area's plant and animal life, and the fenced property creates a habitat barrier in an environmentally sensitive area that is home to several endangered species. The public, meanwhile, cannot review the group's land maintenance plan or finances and has no input into how the land will be preserved. The goal of mitigation regulation is to protect and preserve our State's natural resources. Allowing groups with no public accountability to accept mitigation land and do nothing with it contradicts the purpose of mitigation requirements imposed on developers.

LEGISLATIVE POSITION:

Sponsor and/or support legislation to establish policy that mandates that any land preserved for open space/habitat mitigation by any entity (non-profit or government agency) must meet the following requirements:

- All endowment monies must be used for habitat management and preservation.
- Must have a management plan and the public, Department of Fish and Game and US Fish & Wildlife must have input on the plan.
- Annual biological studies must be conducted.
- Annual budget audits.
- Annual reports.
- For those entities in receipt of the land - Public Meetings and open and free disclosure of agency activities.
- Assurance that land acquired as a result of mitigating measures is maintained according to an appropriate Preservation Maintenance Plan based in part on public input.

Public Safety

District Attorney

1. Courts and Procedures

The California District Attorney's Association and the San Bernardino County District Attorney's Office support legislative changes that will improve procedural operations of the Courts in the areas of the impaneling grand juries, search warrants and conforming the statute of limitations for property crimes.

LEGISLATIVE POSITION:

Support or sponsor legislation that:

- Allows for a presiding judge to designate the powers to another judge to supervise the impanelment of a grand jury.
- Amends Penal Code § 1529 to add district attorney investigators to the search warrant form.
- Conforms the statute of limitations for property crimes related to real estate fraud.

2. Child Abuse

With the continued increase in child abuse and sexual crimes children, the California District Attorney's Association and the San Bernardino County District Attorney's Office support legislative changes to conform existing law and increase various penalties for crimes against children.

LEGISLATIVE POSITION:

Support or sponsor legislation that:

- *Child Pornography* - Amends Penal Code § 311.11 so that possession of child pornography can be charged either as a misdemeanor or a felony crime.
- *Child Exploitation* - Conforms and revises provisions of the law as it relates to the possession, creation, and distribution of child pornography.
- *Sexual Predator Punishment Provisions* - Increases penalties for sex assault crimes committed against children, including kidnap for child molest, habitual child molest, and other violent sex crimes.
- *Sexually Violent Predators (Co-sponsor: California Attorney General)* - Adds the crime of continuous sexual abuse of a child to the list of qualifying offenses under the Sexual Violent Predator Law.
- *Closed Circuit Television* - Expands the use of closed circuit television in the courtroom to cases involving specified child abuse and endangerment charges.
- *Child Sex Assault Victims (Co-Sponsor: California Attorney General)* - Extends the statute of limitations for specified sexual offenses against children under the age of 18, such as rape, sodomy, lewd or lascivious conduct, and sexual

penetration, from 10 years from the date of the crime to any time before the victim's 30th birthday.

3. Controlled Substance Violations

The use of the drug Ecstasy has continued to increase. The increase use of this drug has cause an increase in social and public health issues. The California District Attorney's Association and the San Bernardino County District Attorney's Office support legislative changes to enhance sentencing for sales and possession for sales.

LEGISLATIVE POSITION:

- Support of sponsor legislation that provide for a quantity sentence enhancement for sales and possession for sales of controlled substance violations involving ecstasy (MDMA).

4. Elder Abuse

Elder Abuse continues to increase. Frequently an elder victim is unable to attend trial because of physical problems or that they have move out of state health and caretaker reasons. The California District Attorney's Association and the San Bernardino County District Attorney's Office support legislative changes in the area of conditional exams.

LEGISLATIVE POSITION:

- Support or sponsor legislation that strengthens the conditional exam process in order to assist in the prosecution of elder abuse cases where an elder victim is either out of the state or otherwise unable to attend trial because of illness or death.

5. Identity Theft Prosecutions

As the business community continues to do more transactions via the internet and in an electronic format identity theft crimes increase. The California District Attorney's Association and the San Bernardino County District Attorney's Office support legislative changes for repeat offenders of identity theft.

LEGISLATIVE POSITION:

- Support or sponsor legislation that increases penalties for repeat offenders of identity theft crimes and for perpetrators involved in manufacturing and selling stolen identities.

6. Prison Crimes

The district attorney's office occurs significant cost associated with the training of California Department of Correction's employees. These costs are not reimbursed by the State. The California District Attorney's Association and the San Bernardino County District Attorney's Office support legislative changes to provide appropriate reimbursement.

LEGISLATIVE POSITION:

- Support or sponsor legislation that provides reimbursement to district attorneys' offices for costs associated with the training of CDC employees on prison crimes cases.

7. Sentencing

Various codes contain non-life indeterminate sentences. W&I § 707 to a standard determinate term for uniformity in sentencing.

LEGISLATIVE POSITION:

- Support or sponsor legislation that removes the non-life indeterminate sentences in various codes and converts them to standard determinate terms.

8. Welfare & Institutions Code §707

W&I § 707 contains drafting errors and in areas does not conform to existing statutes. Additional needed technical changes have been identified in provisions pertaining to crime and the implementation of criminal laws. The California District Attorney's Association and the San Bernardino County District Attorney's Office support legislative changes to correct these drafting and technical errors.

LEGISLATIVE POSITION:

Support or sponsor legislation that:

- Provides technical cleanup of W & I § 707 to correct drafting errors and ensure conformance with existing statutes.
- Makes numerous, technical changes to provisions pertaining to crime and the implementation of criminal laws.

9. Reckless Driving

There are serious penalties for driving under the influence causing injury or death. However, without certain priors, reckless driving with injury can only be a misdemeanor. With our extensive road system in San Bernardino County, including mountain roads and isolated desert highways, we see numerous examples of high speed and other reckless driving that results in serious and permanent injuries with multiple victims. Under current law this is only a misdemeanor. This amendment

would give the prosecutor the discretion to file reckless driving with great bodily injury as a felony.

LEGISLATIVE POSITION:

- Amend Vehicle Code §23104 to make reckless driving resulting in great bodily injury a felony and punishable under current felony sentencing guidelines.

10. Jessica's Law Legislation

In an effort to better protect the children and citizens from the devastating acts of sexual predators, the "Sexual Predator Punishment and Control Act: Jessica's Law" has been offered as two bills in the California State Legislature. This law is co-sponsored by State Senator Runner and Assemblywoman Runner. In the event that the bills fail in the legislature, a statewide ballot initiative is proposed. County of San Bernardino Supervisors Postmus and Ovitt are co-sponsors of the Jessica's Law initiative.

California's Jessica's Law as proposed is the combination of SB 588, George Runner (R- Antelope Valley) and AB 231, Sharon Runner (R- Antelope Valley). Both bills have been introduced in each house of the state legislature concurrently. Initial attempts to move this legislation forward have been stalled in committee. Jessica's Law will offer several new and strengthened provisions to State law including GPS tracking of paroled sex offenders for life, new predator-free zones for schools and parks, and a stiffened "sexually violent predator" provision for violent first-time offenders. Also, Jessica's Law will increase penalties for these offenses, increase parole terms, and add new punishable offenses for sex offenders to law.

LEGISLATIVE POSITION:

- Advocate that Jessica's Law be immediately acted upon by the California legislature as an urgency item.

Courts

1. Increased Judgeships

The case-per-judge ratio in San Bernardino County greatly exceeds the ratio of any Southern California county outside of the Inland Empire. The quality of justice in our rapidly growing County necessitates support for this legislation. A bill is being submitted which currently has legislative leadership and Governor's Office support to increase the number of judgeships in San Bernardino County by 23. These judgeships would be phased in over a three to four year period.

LEGISLATIVE POSITION:

- Actively support the legislation that is being introduced to increase the number of judgeships in San Bernardino County by 23.

Sheriff

1. Expansion of Crime Lab

Funding Request: \$4,355,000

The San Bernardino County Sheriff's Crime Lab is old and very cramped. In October 2004 the County Board of Supervisors approved the addition of a new Air Conditioning and Heating Circulation system. This system is long overdue and will cost approximately \$500,000 to install. Installation will begin in the next few months.

Our current Crime Lab facility has about 25,000 square feet of operating space, which includes two exterior mobile trailers. Current construction costs for new crime labs is about \$300.00 per square foot. A new crime lab would currently cost our department over \$22 million. If we included our CAL-ID Division, which was relocated over a year ago to a separate location, we would want to add another 10,000 square feet, which would make our total wants for a new crime lab at 84,000 square feet, at a cost of \$25,200,000.

Realizing our county does not currently have \$25 million to spend on the construction of a new crime lab, we are requesting monies for the expansion to keep up with our growing demands. Our current operations are severely cramped and we have been in dire need of expanding our facilities. Adding this additional square footage (15,300) would assist our crime lab operations for the next few years.

With the recent passing of Proposition 69 (mandatory collection of DNA samples from convicted felons), California will be significantly expanding its statewide database for DNA and fingerprints. This will allow law enforcement agencies a much greater opportunity for identifying suspects in "cold cases". These are crimes that have no initial suspects.

In the upcoming years we will be requesting to significantly increase our Crime Scene Investigations (CSI) Unit and our DNA Units in order to take advantage of the upcoming expansion of our state's DNA/Fingerprint database. But, based on our current facility, we do not have any space available to add any new staff members.

2. Expansion of Regional Training Center

Funding Request: \$12,000,000

The Frank Bland Regional Training Center is located on 650 acres in Devore. The training center facilitates hundreds of training sessions for approximately 25,000 students, from over 100 public safety agencies. The training center has 60 full time staff and provide the following types of training: comprehensive basic academy, emergency vehicle operations center (EVOC), outdoor firearms facility, live-fire

shooting house, chemical agents training site, equestrian, search and rescue, reserve officer courses, civilian programs, high-school student internship academy.

The current buildings are old, and do not meet specifications for earthquake and flooding; and are overcrowded. Every year during the heavy rainfalls, Institution Road floods and becomes impassable. This is the only access road to the training center. Institution Road needs improvement to prevent flooding during storming weather conditions, to accommodate safe travel for the instructors and students.

Beyond safety issues and on-going maintenance and upgrades there is also a need to expand the size of the training center. The long-range plan is to expand the types of training available to law enforcement agency personnel to include training for anti-terrorism, homeland security, explosives training, plus future expansion plans for a new Public Safety Learning Center. The Sheriff's Department has already prepared architectural drawings for the new learning center and is prepared to proceed once funding becomes available. Six millions dollars has already been committed by citizen donations, however another estimated \$12 million dollars is needed to complete the project.

Note: San Bernardino County Sheriff's Department has been earmarked for \$500,000 of federal Homeland Security funding toward the expansion of the Sheriff's Regional Training Center.

LEGISLATIVE POSITION:

- Sponsor or support legislation for additional funding for the identified needs of law enforcement activities.

County Fire Operations

1. Increased Funding for Unfunded Tax Areas**

The northern and eastern portions of San Bernardino County are known as the "unfunded fire protection area" since there is no established fire protection district that serves the area and very little privately owned land to support such a fire district. The majority of the area is public land owned by the federal government and bisected by Interstate 15 and Interstate 40. In addition, several state highways, including routes 58, 62, 95, 127, and 395 transect these public lands. Within the last couple of years, an additional 600,000 acres of private lands have been transferred to federal government ownership within San Bernardino County. Historically, and by direction of the Board of Supervisors, the San Bernardino County Fire Department (County Fire) provides fire and rescue services in this portion of the county.

County Fire recently completed a site acquisition process for the purchase of a 5 acres parcel in the community of Baker for the purposes of constructing a fire station to serve the northerly portions of the unfunded fire protection area, and specifically

Interstate 15 from Barstow to the Nevada Stateline. This station's first-in service area is approximately 4,000 square miles of primarily public lands. The part-time paid-call firefighters assigned to Baker are housed in an apartment at a privately operated prison and depend on a prison crew for additional staffing. The fire apparatus is parked in a refuse service company's metal shed. The Baker personnel responded to approximately 950 incidents per year, primarily traffic accidents that occur on over a hundred miles of Interstate 15 and State Highway 127.

County Fire allocated \$270,000 of one-time funds for the recently completed architectural and engineering plans for a new 5,000 square foot fire station in Baker. The Board of Supervisors has allocated \$1.75 million for the construction of the fire station, but there are no funding sources for the required career staffing of the Baker Fire Station. A four-person engine company is the desired staffing level for the Baker Fire Station. A four-person engine company allows a rescue crew to operate safely as a single resource. This staffing level would maintain a Captain, Engineer, and 2 firefighters on duty each day. This staffing level is critical since the next closest fire station to support the Baker Fire Station personnel is the County Fire Station in Harvard, which is 46 miles away.

Annual cost for operational funding is currently estimated at \$1.6 million.

LEGISLATIVE POSITION:

- Sponsor and/or support legislation to fund staffing, operations and maintenance of county fire department operations in unfunded tax areas such as the Interstate 15 and 40 corridors through Bureau of Land Management and National Park lands.

Homeland Security

1. Increased Funding for First Responders

The County of San Bernardino acts as a first responder to all terrorist or terror-related attacks in most of the county. Many cities contract with the Sheriff's Department for police services in lieu of creating a citywide police service. Other cities contract with the San Bernardino County Fire Department (County Fire) for fire and paramedic related services.

LEGISLATIVE POSITION:

- Sponsor and/or support legislation that will supplement the County General Fund and special district funding in protecting our citizens against international and domestic terrorism.

Emergency Operations Centers

1. Increased Funding for County and City EOCs

The County of San Bernardino acts as a first responder to natural, as well as man-made, disasters. As evident from recent storms, there is no boundary between incorporated and unincorporated areas. By working with cities, as well as with its own resources, the County of San Bernardino can more ably protect its citizens and respond to calamities.

LEGISLATIVE POSITION:

- Sponsor and/or support legislation that would fund city and county emergency operation centers, and adequately fund the centers in order for them to have state-of-the-art technology.

Court Facilities

1. Parking Revenues or Third Party Tenants

This proposal would allow the County to deduct revenue currently earned from third party leased spaces such as cafeterias, microwave towers, public telephones, vending machines, and similar other revenue earning agreements in the County Courthouses in the event those spaces transfer to the State as Court space. We are recommending amendment to the Trial Court Facilities Legislation SB 1732 (Escutia) language related to the County Facilities Payment calculation to allow for such deduction if these spaces transfer.

Existing Legislation requires the transfer of responsibility for trial court facilities funding and operation from the County to the State. Counties shall provide funding for utility, maintenance and insurance costs based on historic funding pattern through a County Facilities Payment (CFP) form. An amount shall be calculated for each facility and agreed to prior to the facility transfer of responsibility. This funding shall be provided in perpetuity. The County of San Bernardino is obligated by the legislation to use this approved CFP form and cannot introduce any modification to the CFP form.

The CFP form does allow County's to enter a negative amount under "other categories" for revenue currently earned from cafeterias or similar concession agreements, and other third party businesses that are currently located and operating in the courthouses, however, the legislation does not clearly provide for this credit.

This Legislation is Needed because some of the County's courthouses include business related leases that generate revenues to the County, and in the event the County agrees to transfer that space to the State, the State should not receive "double payment": The revenue and the payment for maintaining and operating the facility. After reviewing the language of the legislation related to the CFP calculation, we have concluded that the legislation does not clearly provide for the credit to the County for revenue earned from tenants' leases, but it does not disallow it either.

LEGISLATIVE POSITION:

- Clarify and specifically allow the County to deduct revenue generated from leases in the courthouses when that space is included in the Court space from the Court transfer facility payment

2. Insurance Payment Costs

This proposal would clarify that the insurance payment that is required as part of the Trial Court Transfer to the State, SB 1732 (Escutia), should be based on the County's actual cost related to actual repair and liability for the base year named in

the legislation. Since the County is self-insured, the insurance payment, which will be transferred to the State, should not include any theoretical payment based on a commercial insurance rate, nor should it include liability that is the Courts' responsibility pursuant to law or Rule 810.

Existing Legislation requires the transfer of responsibility for trial court facilities funding and operation from the County to the State. Counties shall provide funding for utilities, maintenance, and insurance costs based on historic funding pattern through a County Facilities Payment (CFP) form. An amount shall be calculated for each facility and agreed to prior to the facility transfer of responsibility. This funding shall be provided in perpetuity.

According to SB 1732, section 70358, the legislation provides that the County should pay the State for actual insurance costs based on the 1999-2000 fiscal year multiplied by the increase in the inflation index from January 2000 to the month of the date of the transfer of responsibility for the court facility from the County to the State.

The legislation also states that in determining the cost of the insurance, commercial insurance coverage for a fair and reasonable level of insurance and the costs of self-insurance may be considered. The legislation also includes that the amount of the insurance cost shall be subject to negotiation between the parties. Both the State and the Counties have interpreted the language of the existing legislation differently. The County is reading the existing legislation to state that the insurance payment may be determined based on the costs of self-insurance or actual cost. On the other hand, the State may require an insurance payment equal to the commercial rate for all transferred courthouses.

LEGISLATIVE POSITION:

- Clarify that insurance payments should be based on actual insurance costs or actual incident repairs and liability claims incurred by a county based on the 1999-2000 fiscal year.

3. Expand the Definition of "Court Facilities"

This proposal would clarify that the Sheriff's holding cells located in the County courthouses for the exclusive use of the court proceeding should be classified as State responsibility when courts are transferred to the State as part of the Trial Court Transfer to the State, SB 1732 (Escutia).

Existing Legislation requires the transfer of responsibility for trial court facilities funding and operation from the County to the State. In a shared-use facility, the County and the Court are responsible for the operation and day-to-day maintenance costs of that space in the building exclusively used by each entity. Therefore, determining the Court share of "Court facilities" and County share of each

courthouse space is an essential part of drafting the transfer agreement between the State and the County, and determining the County facilities payment.

SB 1732, Section 70301 (d) defines the “Court facilities” by listing among other items, the superior court rooms, the chambers of the judges, the rooms for court attendants, the rooms for holding of a prisoner attending court sessions and their secure transfer to the courtrooms, and *“Any other area within a building required or used for court functions.”*

The language of the existing legislation has been interpreted by the Counties to classify the Sheriff’s holding cells that are located in the courthouses as court facilities and should be transferred to the State and become State responsibility once the County and the State sign the transfer agreement. The State, on the other hand, is not accepting this argument and postponing accepting the holding cells pending discussion within the State family. The State could also be preparing for legislation amendment to keep the holding cells under the County responsibility.

LEGISLATIVE POSITION:

- Clarify that when the Sheriff’s holding cells located in the courthouses are serving a court function, they should be transferred to the State as State responsibility once the Court Transfer Agreement is signed.

4. Limit the Trial Court Transfer Inflation Index

This proposal would limit the inflation index used in the Trial Court Transfer to determine the County Facilities Payment to a maximum of June 30, 2007, in case the State decides to extend the transfer deadline beyond the existing June 30, 2007 date.

Existing Legislation (Court Facilities Legislation SB 1732, Escutia) requires the transfer of responsibility for trial court facilities funding and operation from the County to the State. Counties shall provide funding for utility, maintenance and insurance costs based on historic funding pattern, which will be adjusted by the change in the inflation index specified in section 70355 of the legislation.

Section 70355 specifies that all values computed for the County Facilities Payment should be adjusted from the fiscal year of the expenditure to the month of the effective date of transfer for inflation. The inflation index has increased from 113.0 in July 2003 to 122.1 in April 2005 based on index data provided by the State Department of Finance. The index is forecasted to reach 125.3 In April 2006. Therefore, the longer it takes to transfer the courts to the State the higher the County Facilities payment will be because of a higher inflation index that is computed based on the month of the effective date of transfer. Therefore, we believe the date of June 30, 2007 will have to be extended in order to complete the transfer of all of the State courthouses.

The State's constant new interpretation of the legislative requirements is among the reasons contributing to delaying the completion of the Court Transfers within the legislation deadline. We believe that the counties should not be held responsible by paying more inflation cost, since we do not have the power to influence the date of the transfers.

LEGISLATIVE POSITION:

- Seek legislation to allow the County to limit the inflation index at the June 2007 value in case the Trial Court Transfer deadline is extended past the current June 30, 2007 deadline established in the SB 1732 legislation.

5. Reform Seismic Retrofit Requirements

This proposal would facilitate the transfer of the County's courthouses that are classified as seismically unacceptable (level V seismic rating) under the Trial Court Transfer SB 1732 (Escutia). It would delete the seismic retrofit requirements for those courts that are scheduled for replacement within the first five years of the State's capital plan. Section 70326 © of SB 1732, provides that seismically deficient courts will not transfer to the State unless provision is made for correcting the deficiencies.

According to section 70327, the State has provided for a licensed structural engineer inspection and concluded that six of San Bernardino County's court buildings are classified as "unacceptable seismic safety rating" (level V rating or higher), which means that these courts could not be transferred to the State unless they were seismically retrofitted according to the State standards. The State's estimate to structurally retrofit the San Bernardino County deficient courthouses is in the range of \$13 million (excluding the Central Courthouse and T-Wing in San Bernardino which has an approved capital project to seismically retrofit).

Pursuant to Assembly Bill 1473, the State Administrative Office of the Court (AOC), submitted a Five-Year Infrastructure plan, entitled AB 1473 Five-Year Capitalized Asset Plan FY 2005-2006, to the Department of Finance. This plan includes a list of prioritized trial court capital projects in the 58 Counties master plans. A multimillion-dollar infrastructure plan is proposed based on passage of a major court bond bill (Sen. Bill 395) in the fall 2006.

The County's Victorville courthouse is classified as seismically deficient and the State intends to replace this courthouse with a new courthouse in Apple Valley on land owned by the County and adjacent to the new High Desert Juvenile Detention and Assessment Facility. The County is financially constrained to retrofit the Victorville Courthouse at an estimated cost of \$5.8 million and the County believes that it does not make an economical sense to retrofit a courthouse, which is slated for replacement in a few years.

LEGISLATIVE POSITION:

- Propose legislation that would allow the County to transfer the structurally deficient courthouse slated for replacement under the Five-Year Capitalized Asset Plan without structural upgrade to the facility.

6. Liability Retention for Seismic-Related Damage and Injury

This proposal would facilitate the transfer of the County's courthouses that are classified as seismically unacceptable (level V seismic rating) under the Trial Court Transfer SB 1732 (Escutia). It would also require the County to retain all liabilities for seismic-related damage and injury. Section 70326 (c) of SB 1732, provides that seismically deficient courts will not transfer to the State unless provision is made for correcting the deficiencies.

According to section 70327, the State has provided for a licensed structural engineer inspection and concluded that six of San Bernardino County's court buildings are classified as "unacceptable seismic safety rating" (level V rating or higher), which means that these courts could not be transferred to the State unless they were seismically retrofitted according to the State standards. The State's estimate to structurally retrofit the deficient courthouses is in the range of \$13 million. (Note: This retrofit cost excludes the Central Courthouse and T-Wing in San Bernardino, which has an approved capital project to seismically retrofit.)

Since the County is financially constrained to retrofit the unacceptable seismically rated buildings, the County will be limited to transfer the newer courthouses or smaller courthouses that did not receive an evaluation and one leased facility only.

LEGISLATIVE POSITION:

- Allow the County to transfer the structurally deficient courthouses by retaining liability for seismic-related damage and injury including only Court's personal property damage related to the seismic event. This type of risk is currently the responsibility of the County and will not add any new unfunded mandate.

7. Bonded Indebtedness Defeasement

This proposal would allow courts with bonded indebtedness that would transfer immediately, to be transferred to the State without further imposing requirements when the bond is defeased. Existing Legislation (Court Facilities Legislation SB 1732, Escutia) requires the transfer of responsibility for trial court facilities funding and operation from the County to the State.

Section 70323 (a) of SB 1732, provides that "Title shall transfer to the State when the bonded indebtedness is paid." However, the County is required to transfer responsibility for the bonded indebtedness courts no later than June 30, 2007, as stated in section 70321 of the legislation. Therefore, the County could be transferring responsibilities for some of the bonded courts years earlier than

transferring title, since four of the County's courthouses have bonds that will not be retired for many years. The legislation is silent on the issue of additional requirements being imposed by the State before the title transfer actually occurs.

Even though the legislation intends to transfer the courts from the County to the State in as-is-condition, the State has proposed language in draft transfer agreements that may impose additional requirements on the County, such as code upgrades for the various building systems or equipments, before the actual transfer is complete when the bond is paid. This could expose the County to financial obligation that was not intended in the Trial Court Transfer legislation.

LEGISLATIVE POSITION:

- Clarify that the State may not impose additional requirements on court transfer at the time title transfers. If the State accepted responsibility for a bonded indebtedness court facility, then the title transfer after the bond is paid should be a simple title transfer transaction and the transfer agreement should indicate this.

8. Adequate Space Requirement

This proposal would provide the County with an equivalent space that the County currently occupies in any courthouse in the event the State builds a replacement courthouse. If the State builds a new expansion courthouse, the State and County should agree to the County's space allocation, which should be based on past practice. These newly constructed County share spaces should be provided to the County free of charge, but the County will continue to share maintenance and utility costs according to their share within a court facility according to SB 1732. The new space actual square footage should comply with current code requirements for the number of people assigned to the Court and not simply equal to the square footage in the replaced facility, since the new building code may require additional areas for circulation, ADA, fire, other applicable code requirements, and any increase in courtrooms or court functions that necessitates additional County staffing.

Since most of the County courthouses are shared facilities between County and Court users, the legislation provides extensive information to regulate the user rights and responsibilities in a shared facility. The County share in the courthouses varies from 11 percent up to 96 percent depending on the court's functions, locations, and the type of cases heard in each courthouse. The County functions include District Attorney, Sheriff, Public Defender, Probation, and other Law and Justice related functions.

Section 70341 defines the user rights in shared use buildings by stating that both Court and County have the exclusive use of the facilities including the common areas. Section 70342 regulates the adjustment of space in shared use buildings between Court and County. Section 70343 presents that an agreement should be completed between the users in a shared use building regarding responsibilities for maintenance, administration, and liabilities. Section 70344 deals with title transfer of

shared use buildings, majority occupant, and the rights of displaced parties. In addition, section 70354 states that the County Facilities Payment (CFP) should be prorated for the court's usable space in the building.

The legislation does not include any instruction on providing space for County departments that are a necessary and essential part of the Court daily functions such as Sheriff, District Attorney, Public Defender, and Probation. We believe this issue would cause conflict between the State Administrative Office of the Court (AOC) and the County once the AOC starts implementing their master plan of providing replacement or new courthouses.

LEGISLATIVE POSTION:

- This proposed legislation would specifically clarify that the County should be provided an equivalent space free of charge in all replacement courthouses, and reasonable County law and justice space, based on past practice, in any new expansion courthouse built by the State.

9. "Significant Deficiencies" Definition and Language Change

This proposal would clarify that the State may reject facilities that are "seriously deficient" as stated in SB 1732 section 1 instead of the definition stated in section 70326 of the legislation that defined building deficiency as "significant threat to life and safety" or "significant to the functionality". Existing Legislation requires the transfer of responsibility for trial court facilities funding and operation from the County to the State.

Section 1 – Legislative Finding and Declaration (7) states that "*Generally, the state shall be expected to accept responsibility for facilities in as-is condition. However, the state may reject facilities that are seriously deficient, and require counties to continue financial responsibility for those facilities.*" It is clearly stated that the legislative finding intended to reject only buildings that are seriously deficient.

Section 70326 (b) of the legislation states that "A building and the court in it shall be deemed deficient if any of the following exist:

- (1) A deficiency or deficiencies that constitute a significant threat to life, safety, or health.
- (2) Deficiencies that in their totality are significant to the functionality of the facility."

As stated in the legislation preamble, the State may reject facilities that are seriously deficient and not a deficient building with significant threat or significant to the functionality. Therefore, a building may be deficient by definition, but it is not seriously deficient to qualify for being rejected by the State. In addition, the definitions of serious and significant have two different meanings. For example using the Merriam-Webster dictionary the word serious has a meaning of "having important or dangerous possible consequences" where the word significant is defined as "having or likely to have influence or effect."

LEGISLATIVE POSITION:

- This proposed legislation would clarify that only buildings that are classified as seriously deficient and not simply deficient buildings with significant threat to life or significant impairment of functionality can be rejected by the State for the purpose of the Trial court transfer.

10. Historical Court Cost Formula Adjustment

This proposal would allow counties to exclude from the Court Facilities Payment (CFP) obligation those maintenance, operations, and other costs associated with increased space provided to the courts after the 5-year time period that is used as the basis to determine the historical costs for the CFP.

Existing Legislation (Court Facilities Legislation SB 1732, Escutia) requires the transfer of responsibility for trial court facilities funding and operation from the County to the State. Counties shall provide funding for utilities, maintenance, and insurance costs based on the historic funding pattern through a County Facilities Payment. An amount shall be calculated for each facility and agreed to prior to the facility transfer of responsibility. This funding shall be provided in perpetuity.

Most of these costs are calculated based on the annual average of actual costs incurred from 1995 to 2000. Section 70355 then requires that these costs be adjusted by the change in the inflation index up to the date of transfer. This is the only adjustment required in the statutes.

The State has taken the position (and the CFP form is designed) that the CFP is to also be adjusted IN ALL CASES to reflect the costs of the current, expanded area occupied by the courts. Since there are many reasons why the counties have provided courts with additional space over the years, there are situations in which the CFP should not be increased. One situation is where the County allowed the Court to occupy “temporary” space that was not being used at that time by the County. Additionally, the State’s position is in direct conflict with a statutory provision that any additional courtrooms necessitated by new judgeships after a specified date have been the complete responsibility of the state. Clearly, the cost associated with this additional space has never been the County’s responsibility and should not now be added to the CFP obligation.

LEGISLATIVE POSITION:

- This proposed legislation would clarify that the State must consider the reason for the increase in Court-occupied space and may not increase the historical costs in determining the CFP obligation in certain situations.

Libraries

1. Library Construction Bond Act of 2006

The California Reading and Literacy Improvement and Public Library Construction and renovation Bond Act of 2006 will appear as an initiative on the June 2006 Primary ballot. It will provide \$600,000,000 for the purpose of financing library construction and renovation. It is modeled after the 2000 Public Library Construction and Renovation Act of 2000 which provided \$350,000,000 for library construction through a competitive grant process.

San Bernardino County was awarded 4 grants for new construction totaling \$32,000,000. If successful the first priority under the new act shall be given to applications that were submitted but not funded in the third application cycle of the last bond Act. Up to 50% of the funds can be utilized for these projects.

The County Library has two such applications; Bloomington and Running Springs. In addition to the previous submittals, the County Library would anticipate developing applications for other projects. The County Library's Facility Master Plan, which was developed in 2001, has identified the need for expansion or replacement of a number of its Library facilities due to a combination of the condition and age of existing facilities, as well as the anticipated population growth of its service area. The Bond Act would allow the Library and its participating Cities an opportunity to leverage local funds to build new facilities since the grant process provides a 2:1 State to local match.

LEGISLATIVE POSITION:

- Support the passage of the Library Construction Bond Act of 2006.

2. Public Library Foundation (PLF) Program

The Public Library Foundation was established by the State Legislature in 1983 to provide State Aid to local libraries. As an item in the State budget the PLF allocation is subject to the extensive budget negotiation process. It is a straight per capita formula. The maximum amount allocated to the Fund was \$56,870,000 in 2000/01 and 2001/02. Since that time it has declined to \$14,360,000; a 78% reduction. The County Library's allocation has been reduced from \$1,784,000 to \$466,000; a 1.3 million dollar decrease.

The County Library has utilized these funds to purchase books for its libraries. The significant decline in this funding has precluded the library from purchasing enough materials to meet the demand. Restoration of these funds would allow the County Library to be able to purchase more materials.

LEGISLATIVE POSITION:

- Restore Funding for the Public Library Foundation (PLF) Program.

Special Districts

1. Relocate Moonridge (Zoo) Animal Park

Funding Request: \$2,000,000

Background: The Moonridge Zoo is the only zoo in San Bernardino County. In February 2009 the Moonridge Zoo will lose its lease at the current location. The land has already been sold and there is no potential for renegotiation. San Bernardino County has recently negotiated a lease for 25 acres of Forest Service land next to the USDA Forest Service Discovery Center located in Big Bear Valley. This land will be the new home for the animals and will allow for a modern expanded facility to be built. This partnership with the USDA Forest Service is unprecedented. It will be the first time a zoo of any kind has been allowed on Forest Service land and will give the public an unparalleled experience in learning about the forest and the alpine ecosystem. The cost of the new facility is estimated at \$12,000,000. Grants and local contribution to date have raised approximately \$5,000,000. There is tremendous public approval for this project. Membership to the Animal Park is worldwide.

The Moonridge Animal Park started in 1959 when an injured raccoon and deer were dropped off at the doorstep of the Big Bear Recreation and Park District. With no other source to take care of the animals the district took on the responsibility. Since that humble beginning the Animal Park is currently located on 2.5 acres and is home to over 100 animals. The Animal Park is a recognized rehabilitation facility by the State Fish and Game Department. Most of the animals in the Park were injured, orphaned, or considered a public nuisance and cannot be returned to the wild. All of the animals are special but the stars of the Park are the Snow Leopards from Nepal, American Wood Bison (only ones in California), 3 young mountain Lions (protected species in California) and 3 Grizzly Bears. The Grizzly Bears were victims of the 3 strikes law. The animals were going to be destroyed because they were considered a threat to the public. The community of Big Bear started a campaign and raised the funds to bring the bears to the Park. It is ironic that in the State of California where the Grizzly Bear is a symbol of our State, the only place that the public can see a live Grizzly Bear is at our Park.

The requested \$2,000,000 will be used to construct the new animal park facility. These funds, with the already raised \$5,000,000 will insure that the first phase of the project can be completed. This phase is to build the critical infrastructure and animal facilities needed to move the animals from their current location to the new facility. Other needed but less critical facilities such as gift shops, education centers, and etc. will be built as other funds are received through various fund raising efforts.